

**OVERSIGHT OF THE ENVIRONMENTAL PROTECTION AGENCY'S PROGRESS IN IMPLEMENTING INSPECTOR GENERAL AND GOVERNMENT ACCOUNTABILITY OFFICE RECOMMENDATIONS**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON SUPERFUND, WASTE  
MANAGEMENT, AND REGULATORY OVERSIGHT

OF THE

COMMITTEE ON  
ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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JUNE 14, 2016

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# **OVERSIGHT OF THE ENVIRONMENTAL PROTECTION AGENCY'S PROGRESS IN IMPLEMENTING INSPECTOR GENERAL AND GOVERNMENT ACCOUNTABILITY OFFICE RECOMMENDATIONS**

**TUESDAY, JUNE 14, 2016**

**U.S. SENATE**  
**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,**  
**SUBCOMMITTEE ON SUPERFUND, WASTE MANAGEMENT, AND**  
**REGULATORY OVERSIGHT**  
*Washington, DC.*

The committee met, pursuant to notice, at 3:05 p.m. in room 406, Dirksen Senate Office Building, Hon. Mike Rounds (chairman of the subcommittee) presiding.

Present: Senators Rounds, Markey, Crapo, Boozman and Inhofe.

## **OPENING STATEMENT OF HON. MIKE ROUNDS, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA**

Senator ROUNDS. The Environment and Public Works Subcommittee on Superfund, Waste Management, and Regulatory Oversight is meeting today to conduct a hearing entitled Oversight of the Environmental Protection Agency's Progress in Implementing Inspector General and Government Accountability Office Recommendations.

Approximately 1 year ago we held our first subcommittee hearing with Inspector General Arthur Elkins of the Environmental Protection Agency, who testified about his office's work in conducting audits and investigations related to EPA agency actions and programs. Since then we have held hearings conducting oversight on various aspects of the EPA rulemaking process to make certain the regulations the EPA implements are promulgated in an open, transparent process with adequate public participation.

Unfortunately, we have found this is often not the case. The GAO is an independent, non-partisan agency that prepares reports that are either mandated by public laws or committee reports, or at the request of Congress. They provide comprehensive audits examining the economy and the efficiency of government operations.

The Office of Inspector General reports to both the EPA and Congress regarding any problems and deficiencies relating to the administration of the Agency's programs and operations, and also serves as the investigative arm of the EPA, examining possible criminal or civil violations by the Agency. These offices conduct Agency oversight to determine whether Federal funds are being

spent efficiently and effectively, the Agency is being managed properly, and to make certain that Government programs and policies are meeting their objectives in an open, transparent manner, and are complying with the applicable statutes when promulgating regulations.

In addition to conducting their own investigations, the GAO and OIG make recommendations to the EPA that, when successfully implemented in a timely fashion, can be effective at correcting mismanagement and holding the EPA accountable in properly fulfilling its mission and responsibly managing taxpayer dollars.

The GAO and the IG prepare regular reports detailing EPA's progress in implementing these recommendations. While both offices track the EPA's implementation of these corrective actions for several years after the recommendation is made, testimony today reveals that the EPA is slow to implement recommendations and there may be a need for these offices to do more to followup on open recommendations.

When the EPA does not implement these recommendations or delays their implementation while continuing to conduct business as usual, the mismanagement at the Agency continues and taxpayer dollars are improperly managed. Most alarmingly, the EPA continues to promulgate regulations that impose huge costs on the U.S. economy and American families, while not using proper safeguards.

In the past year alone, the EPA has moved forward with its finalizing the Waters of the U.S. Rule, the Clean Power Plan, and tightening ozone NAAQS. These regulations will impose unprecedented costs on American families and the U.S. economy. Further, two of these regulations are on hold by the courts.

When the EPA finalizes regulations through an improper process without implementing recommendations that would make the process better, the result is bad regulations, and that is what we have seen from the EPA. Additionally, in the past year, the EPA has made headlines with the Gold King Mine spill and the Flint water crisis. Now, more than ever, we need the EPA to get back to its core functions rather than pursuing burdensome regulations based on shaky legal ground. The GAO and the OIG play an important role in this.

Our witnesses today will provide us with an update on the EPA's progress in implementing recommendations and help us conduct oversight over the EPA's process for implementing corrective actions.

I am happy to have with us today Alan Larsen, the Counsel to the Inspector General of the Environmental Protection Agency, and Alfredo Gomez, the Director of the Natural Resources and Environmental Team of the Government Accountability Office.

I would like to thank our witnesses for being with us today, and I look forward to hearing from your testimony.

Now I would like to recognize my friend, Senator Markey, for a 5-minute opening statement.

**OPENING STATEMENT OF HON. EDWARD J. MARKEY,  
U.S. SENATOR FROM THE STATE OF MASSACHUSETTS**

Senator MARKEY. Thank you, Mr. Chairman, and thank you for scheduling today's hearing.

The Government Accountability Office and the Environmental Protection Agency's Office of the Inspector General are a vital component of governmental integrity. These watchdogs must be independent, non-partisan, and maintain the highest ethical standards. In addition to fighting fraud, waste, and abuse of power, they ensure that Government works the way Congress intended, and in a manner that the public deserves.

From its work uncovering nearly \$100 million in wasted refundable airline tickets, to probing weaknesses in aviation security, to protecting our water supply from damage caused by oil and gas production, GAO has provided an invaluable service to the American public.

Inspectors general play an equally important role. The Securities and Exchange Commission inspector general uncovered the mishandling of whistleblower tips in the Madoff Ponzi scheme. In response, Congress passed the Dodd-Frank Act, bringing the most significant changes in financial regulation since the Great Depression.

At the EPA, the inspector general has raised concerns ranging from how the EPA oversees States' implementation and enforcement of programs designed to protect the public from bacteria-contaminated beaches to how the EPA conducts proper long-term monitoring of Superfund sites and ensuring that they are safe for reuse, to how the EPA can improve the review process for potentially harmful chemicals.

EPA has implemented 174 GAO recommendations of the 325 made during the last 10 years. When one factors in the 4-year average time it takes to implement a GAO recommendation, the Agency has a 77 percent implementation rate. This rate is on par with other Federal agencies and with the 80 percent implementation target for recommendations that GAO has set for all agencies.

The EPA has also worked hard to close out recommendations from the inspector general. Over the past 7 years, the inspector general has made over 1,700 recommendations to the EPA. At the time of the last annual report, only 158 remained unimplemented. The EPA is battling diminished resources, a lack of authority, and program updates that are underway but incomplete. Those struggles are compounded by a 20 percent decrease in appropriated funds and a 15 percent loss to its work force since 2010.

If we are going to expect more rapid and complete agency responses to GAO and the inspector general recommendations, then we must ensure that EPA has access to the resources that are necessary to achieve its mission. Just look at Flint, Michigan and our Nation's failing water infrastructure, or hazardous air water pollutants with health risks that have yet to be assessed, or even the harmful pesticides that threaten bee populations that are vital to our ecosystem.

We must recognize that our responsibility in creating those problems due to the prevailing dissidence between required funding levels and actions that should be taken by EPA are necessary to keep

Americans safe. We must also combat other obstacles that hinder agency oversight. Both GAO and the inspectors general provide a crucial public service, and it is imperative that you are provided with all the tools you need to do your job effectively.

Now, I have been made aware of the possibility that a Department of Energy contractor who cooperated with the GAO investigation that I requested may have been fired in retaliation for their cooperation. We should be doing everything possible to enhance GAO's ability to obtain the information it needs to undertake its mission of ensuring "the accountability of the Federal Government for the benefit of the American people and protect those who help in such efforts."

Inspectors general's investigations can also be slowed without a review of all the critical materials. Preventing investigators from timely access to all records, documents, and other materials is contrary to the fundamental idea of transparency that Congress intended when establishing the inspector general.

I thank each of you in advance for your testimony and I thank you again, Mr. Chairman, for holding this hearing.

Senator ROUNDS. Thank you, Senator Markey.

Our witnesses joining us for today's hearing are Mr. Al Larsen, Counsel to the Inspector General, Office of Inspector General, U.S. Environmental Protection Agency and U.S. Chemical Safety and Hazard Investigation Safety Board; Mr. Alfredo Gomez, Director, Natural Resources and Environment Team, U.S. Government Accountability Office.

Gentlemen, your written statements will be made a part of the record without objection and at this time we will turn to both of you. Mr. Larsen, if you would like to begin, for your 5-minute opening statements.

**STATEMENT OF ALAN LARSEN, COUNSEL TO THE INSPECTOR GENERAL, OFFICE OF INSPECTOR GENERAL, U.S. ENVIRONMENTAL PROTECTION AGENCY AND U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION SAFETY BOARD**

Mr. LARSEN. Good afternoon, Chairman Rounds, Ranking Member Markey and members. I am Alan Larsen, counsel to the Inspector General for the Environmental Protection Agency and the U.S. Chemical Safety and Hazard Investigation Board. I would like to thank the Subcommittee for shining a spotlight on unimplemented OIG recommendations. I will provide an overview of what happens after OIG makes a recommendation and progress to date by both agencies with regard to implementation.

Most of our audit and program evaluation work is performed in accordance with generally accepted Government auditing standards. Findings and recommendations for correcting any deficiencies are issued to agency officials as part of the final report, and that is also made public.

The impact of a recommendation may be direct cost savings or an improvement in program efficiency or effectiveness. A recommendation may ensure the integrity of a program or result in other benefits.

Once OIG issues a report, it is up to the agency to implement recommendations. However, OIG staff tracks each recommendation



until it is fully implemented, which is a significant part of our oversight work.

OIG lists unimplemented recommendations in our semiannual reports to Congress. Our most recent report cited 148 recommendations unimplemented by EPA and 10 recommendations unimplemented by CSB. The average number of unimplemented recommendations for the last seven semiannual reporting periods was 144, or 133 for EPA and 11 for CSB. The numbers for the first and the most recent of those periods were virtually identical: 159 and 158. In other words, overall, the agencies have been implementing recommendations at the same pace that new ones are being added to the list.

Of the pending unimplemented recommendations reported for EPA, the time elapsed since report issuance ranges from less than 1 year to more than 9 years. The age of CSB's unimplemented recommendations ranges from nearly 3 years to more than 5 years.

Government auditing standards require that OIG obtains the agency's views regarding proposed recommendations. If the agency agrees with the recommendations, it must provide intended corrective actions and estimated completion dates. OIG's project team assesses the agency's proposal and determines if it sufficiently meets the intent of our recommendations.

When the agency does not fully agree with OIG's findings or recommendations, we note that disagreement in our report. OMB requires an audit resolution process; EPA fulfills this requirement via its Manual 2750, which establishes that the agency is responsible for ensuring that management decisions on OIG recommendations are implemented.

In most cases, OIG and the agency agree on final report recommendations. When there is a disagreement, we follow an escalating resolution process with three tiers as needed. OIG would not remove a recommendation from our unimplemented list based on agency refusal to act or because too much time has passed.

The EPA chief financial officer and OMB managing director are responsible for assessing and reporting to OIG on each agency's progress. In turn, the OIG monitors, reviews, and verifies that progress. In addition, OIG conducts followup audits. These assignments are based on size, complexity, and significance of the issues and recommendations in the original report.

In conclusion, accomplishing the tasks I have discussed requires sufficient appropriated funds from Congress. During the past year, we have returned \$16 for every dollar given to us. When OIG is unable to carry out its responsibilities because of inadequate funding, it is a net loss to the Federal Government and the American taxpayers. While I am aware that this Subcommittee is not an appropriations committee, I respectfully ask for any help that you can provide us in this regard, and we certainly appreciate your support for our work.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or the members have.

[The prepared statement of Mr. Larsen follows:]



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

**Unimplemented OIG Recommendations at the  
U.S. Environmental Protection Agency and the  
U.S. Chemical Safety and Hazard Investigation Board**

**Statement of Alan S. Larsen  
Counsel to the Inspector General  
U.S. Environmental Protection Agency**

**Before the Subcommittee on Superfund, Waste Management,  
and Regulatory Oversight  
Committee on Environment and Public Works  
United States Senate**

**June 14, 2016**

**Statement of  
Alan S. Larsen  
Counsel to the Inspector General  
Office of Inspector General  
U.S. Environmental Protection Agency  
Before the  
Subcommittee on Superfund, Waste Management, and Regulatory Oversight  
Committee on Environment and Public Works  
United States Senate  
June 14, 2016**

Good morning Chairman Rounds, Ranking Member Markey, and members of the subcommittee. I am Alan Larsen, Counsel to the Inspector General (IG) for the U.S. Environmental Protection Agency (EPA) and the U.S. Chemical Safety and Hazard Investigation Board (CSB). I will provide you with an overview of the progress that the EPA and the CSB have made in implementing the Office of Inspector General's (OIG's) recommendations. As you know, making recommendations serves as a significant tool for the OIG to carry out its oversight mandate. If implemented by the agency, the recommendations can result in major improvements in the efficiency and effectiveness of agency programs. Further, Congress could also take legislative action or other measures to address the OIG's recommendations. I would like to thank the subcommittee for shining a spotlight on the issue of unimplemented OIG recommendations by the agencies.

In April 2015, IG Arthur A. Elkins Jr. appeared before this committee to describe how the OIG exercises oversight of the EPA and the CSB, including: the OIG's performance results; significant audits, evaluations and investigations of the EPA and the CSB; and EPA management challenges. He discussed not only the kinds of work we do, but also how we choose projects to undertake.

The outcome of those reviews is manifested as recommendations to the agency about what we found, to correct deficiencies and other findings we identified. During this hearing, I will discuss the next phases in the process. What becomes of those recommendations? Who is responsible for taking action? Who tracks whether the action is taken? When are the recommendations considered satisfied and can they be closed? Who makes the decision to close them? I will address these questions in my testimony.

**Background on the Unimplemented Recommendations**

The IG Act of 1978 provides for independent reviews of agency programs and operations. The EPA OIG's Office of Audit and Office of Program Evaluation perform most of their reviews in accordance with generally accepted government auditing standards (GAGAS). During those reviews, the OIG analyzes the data on a specific program, policy or procedure. Recommendations are developed after comprehensive research and review are completed. It is those recommendations that we issue in our GAGAS-compliant reports that are the subject of my testimony. As such, investigative reports, which do not have such recommendations, and non-

GAGAS projects performed by our Offices of Audit and Program Evaluation, will not be included in my presentation.

The impact of OIG recommendations may be direct cost savings for the EPA or the CSB, or improvements in program efficiency and/or effectiveness. While some of these improvements may not result in direct monetary recoveries, the improvements instead may ensure the integrity of EPA and CSB programs, or result in other benefits that are not readily translated into a dollar savings amount. The OIG provides summaries on the unimplemented recommendations in our Semiannual Report to Congress. That element of the semiannual report represents the OIG's response to a specific statutory reporting requirement found in Section 5(a)(3) of the IG Act of 1978, as amended. It identifies significant recommendations previously issued in our reports for which corrective actions have not been completed. Further, the semiannual report lends transparency to the recommendation resolution process.

The OIG's recently issued semiannual report for the period October 1, 2015, through March 31, 2016, cited 148 recommendations unimplemented by the EPA and 10 recommendations unimplemented by the CSB. The average number of unimplemented recommendations for each of the semiannual reporting periods between March 2013 and March 2016 was 133 recommendations unimplemented by the EPA and 11 recommendations unimplemented by the CSB, for a total of 144. Interestingly, the numbers for the first of those periods and the most recent period were virtually identical—159 in March 2013 and 158 in March 2016. In other words, overall, the agencies have been implementing recommendations at the same pace that new ones are being added to the list.

Of the 148 unimplemented recommendations reported for the EPA in the latest semiannual report, the number of days from report issuance to the date of the semiannual report ranged from 213 (less than 1 year) to 3,434 (more than 9 years). In particular:

- 89 were more than 1 year old.
- 59 were under 1 year old.

The 10 unimplemented recommendations reported for the CSB ranged from 1,005 days (nearly 3 years) to 1,901 days (more than 5 years).

#### **Tracking and Resolving OIG Recommendations to the Agency**

Implementation of the OIG's recommendations is vital to the effectiveness and efficiency of agency programs and operations. The OIG definitely shares this subcommittee's interest in seeing that the agency is held accountable for addressing the recommendations. Office of Management and Budget (OMB) Circular A-123 specifically defines management's responsibility for internal control in federal agencies:

“Agency managers are responsible for taking timely and effective action to correct deficiencies identified by the variety of sources discussed in Section IV, Assessing Internal Control. Correcting deficiencies is an integral part of management accountability and must be considered a priority by the agency.”

To address how the EPA implements recommendations made by the OIG, in March 2016, we issued a report titled *EPA Needs to Improve Its Information Technology Audit Follow-Up Processes* (Report No. 16-P-0100). We revisited the information technology-related audit recommendations issued between FYs 2010 and 2012, and those recommendations associated with the FY 2013 management challenges document, to see whether the EPA implemented those recommendations to correct significant information security deficiencies. In that report, we determined that the oversight of the EPA's follow-up for the offices reviewed did not ensure that agreed-to corrective actions were fully implemented, carried out timely, or accurately recorded and managed effectively in the agency's Management Audit Tracking System (MATS). In addition, corrective actions were not always verified, even though they were recorded as completed in MATS. The high rate of unreliable data in MATS, and a lack of management follow-through to verify that corrective actions actually addressed weaknesses, raised significant doubts and questions about the effectiveness of the EPA's information security program.

Before an OIG GAGAS-compliant report is finalized, the OIG is required by those standards to obtain the views of the responsible agency official regarding the findings, conclusions and recommendations. If the agency agrees with the recommendations, it must provide intended corrective actions and estimated completion dates that will address the deficiencies identified in the OIG's report. The OIG project team assesses the agency's proposed corrective actions and determines if the proposed actions sufficiently meet the intent of OIG recommendations.

When the agency does not fully agree with the OIG report findings or recommendations, a report will be issued without agreement. OMB Circular A-50 requires an audit resolution process to address these situations. The EPA addresses this requirement via its EPA Manual 2750. That manual establishes that the agency is responsible for, among other things, ensuring that management decisions on OIG recommendations are implemented. Under EPA Manual 2750, the OIG and the agency share the responsibility set forth by OMB Circular A-50 for "reviewing the adequacy of the action taken by the agency to correct reported problems and deficiencies." In addition, the OIG conducts select follow-up reviews to assess the agency's progress toward and/or implementation of agreed-to corrective actions.

In most cases, the OIG and agency agree on final report recommendations. However, when there are disagreements, we follow the three-tiered EPA Manual 2750 resolution process. The first step in the resolution process is discussion between the appropriate OIG Assistant Inspector General and the EPA's action official for the given recommendation. If the OIG and agency are able to reach agreement at that stage, resolution is achieved, and the agreement reached would be documented in the agency's recommendation tracking system.

If agreement cannot be reached, as a second step, the action official for that recommendation submits a "dispute resolution request" to the EPA Chief Financial Officer—the Agency Follow-Up Official. The Chief Financial Officer then meets with the IG to try to resolve the issues.

If this second-level elevation cannot reach agreement, the last and third step is to present the EPA Deputy Administrator with the dispute resolution request. The Deputy Administrator reviews the matter; meets with the Chief Financial Officer, IG and involved staff and managers; and then issues a final decision memorandum (per the IG Act).

The maximum time for the entire resolution process is 180 days. In the last 5 years, the OIG has brought two matters for resolution to the Deputy Administrator. In both cases, the agency decided not to accept the OIG recommendation. When the agency rejects the OIG recommendation, under the EPA Manual 2750 process, the recommendation remains part of the original OIG report but it is not listed as “unimplemented.” OIG rebuts the decision as part of the semiannual report to comply with Section 5(a)(12) of the IG Act.

Once a final OIG report is issued, OIG staff tracks each recommendation until fully implemented. Following up on the recommendations is a significant part of the OIG’s oversight work. By appropriately doing so, we hold the agency accountable for implementing these important recommendations.

The OIG would not remove a recommendation based on “refusal to act” or because “too much time has passed.” There are few OIG recommendations where the agency proposes it could take 3 or more years to complete. However, in these situations, as time passes, a number of conditions can change. For example, agency resources can change, new legislation or regulations may be implemented, an unexpected crisis may occur (e.g., Flint water crisis, Gold King Mine incident, British Petroleum oil spill), or other external events may occur to which the agency must respond (e.g., hurricanes). If conditions change notably from when the OIG originally issued a recommendation and these changes have implications for a prior OIG recommendation, this may plausibly call for a reassessment of the recommendation and any actions the agency agreed to take. This scenario is not “giving up”; rather, it is a fair and reasonable reassessment of changed conditions that we ask the agency to justify.

#### **Revisiting a Topic With Another Audit or Evaluation**

An integral part of effective management for the OIG is to promptly reach agreement on actions to resolve OIG recommendations to the EPA and the CSB and, subsequently, assess progress on those agreed-to actions. The OIG and the EPA Chief Financial Officer or CSB Managing Director assess and report on the agency’s progress in resolving OIG recommendations. Monitoring, reviewing and verifying an agency’s progress in completing corrective actions in response to OIG findings and recommendations is an essential control for promoting economy, efficiency and effectiveness within the agency’s operations. Having an effective post-resolution follow-up process encourages an agency to take needed actions to improve business practices and accountability, and enhance protection of public health and the environment.

The EPA Assistant Inspectors General for the Offices of Audit and Program Evaluation annually conduct follow-up audits. The assignments are based on the size, complexity and significance of the issues and recommendations in the original report. Generally, any recommendation included in a prior Semiannual Report to Congress will be considered significant for follow-up audit.

**Conclusion**

The OIG appreciates the subcommittee's interest in our work and ensuring that the EPA and the CSB take the necessary steps to address recommendations that the OIG and both agencies have agreed will remediate identified programs. We will continue to work actively with both agencies to ensure that the OIG's recommendations are implemented, and to keep Congress fully advised on the status of those recommendations.

Accomplishing the tasks that we have discussed at this hearing requires sufficient appropriated funds from Congress. We returned \$16 for every dollar given to us in the past year. When the OIG is unable to carry out its responsibilities because of inadequate funding, it is a net loss to the federal government and American taxpayers. While I am aware this is not an appropriations subcommittee, I respectfully ask for any help you can provide us in this regard.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions that you or subcommittee members may have.

**Senate Committee on Environment and Public Works  
Subcommittee on Superfund, Waste Management, and Regulatory Oversight  
Hearing titled "Oversight of the Environmental Protection Agency's Progress in  
Implementing Inspector General and Government Accountability Office  
Recommendations"  
June 14, 2016  
Questions for Alan Larsen**

**Chairman Inhofe:**

- 1. Mr. Larsen, at the hearing I asked if your office would conduct a follow-up audit/review of EPA actions taken in response to the recommendations in the September 11, 2013, EPA OIG report, "EPA Can Better Document Resolution of Ethics and Partiality Concerns in Managing Clean Air Federal Advisory Committees."**

- a. Since the hearing, what actions have you and your staff taken to conduct such review?**

In answer to both parts "a" and "b" of this question, the Office of Inspector General (OIG) will review this topic during our fiscal year (FY) 2017 annual planning process taking place now through early fall. The OIG uses this process to consider potential projects for the coming year, as proposed by OIG staff, and in conversation with members of Congress, senior agency officials and other stakeholders. The OIG would be happy to meet with Chairman Inhofe and/or his staff, if requested, to discuss any specific concerns the Chairman may have. Please be aware that our annual planning process must take into account what is allowable within the purview of OIG authority, as well as feasible with regard to OIG competencies and resources.

- b. Please describe the OIG's plans to review the Agency's actions per this report's recommendations.**

Please see response to part "a" above.

- 2. Mr. Larsen, the OIG's most recent semiannual report to Congress cited 148 unimplemented EPA recommendations, 89 of which are more than one year old.**

- a. Your testimony mentions annual follow-up audits, but how else does the OIG work with EPA to ensure these recommendations are thoroughly implemented in a timely manner?**

My answer will refer to two reports. The first report, titled "EPA Needs to Improve Its Information Technology Audit Follow-Up Processes," explains the OIG's yearly process of reviewing unimplemented recommendations, as well as public reporting on unimplemented recommendations, which provides incentive for the agency to timely implement them. The OIG believes that our follow-up audits



provide additional reinforcement for timely implementation. In addition, we track the agency's progress implementing recommendations on a monthly basis. We also inform and discuss with the agency any recommendations that have long delays or timelines for implementation. As you are aware, the OIG cannot require the agency to implement our recommendations.

In a second report, titled "EPA Needs to Justify How It Is Using Title 42 Hiring Authority," we recommended that the Assistant Administrator for Research and Development justify the use of U.S.C. Title 42 for appointments or reappointments. When the Office of Research and Development (ORD) determines it will pursue a "Title 42" appointment or reappointment, it provides staff with a memorandum that demonstrates customary employing methods were impractical or less effective, and that the position is in a field deemed most critical in the Strategic Research Action Plans. The EPA initially did not agree with the recommendation and proposed an alternate approach that the OIG did not believe was sufficient. In May 2015, the agency provided a revised response agreeing with our recommendation to update the Title 42 operations manual to: (1) capture each use of Title 42 in a recruitment memo; and (2) periodically inform staff about how ORD used the Title 42 authority. The corrective action also was completed in May 2015. While the agency has a responsibility to timely implement recommendations, the OIG periodically monitors the agency's progress through the EPA's Management Audit Tracking System (MATS). Once the EPA changes the status of a corrective action to "complete" in MATS, the OIG generally follows up by requesting documentation supporting the satisfactory completion of the corrective action. For example, regarding the Title 42 project, the agency sent the OIG a revised manual as proof that the EPA had enacted all changes.

**b. Can you give us a summary of some of the more significant outstanding unimplemented recommendations and how implementing these recommendations would improve the EPA's processes and procedures?**

- 1) Report No. 11-P-0701 – "EPA Should Update Its Fees Rule to Recover More Motor Vehicle and Engine Compliance Program Costs"  
Report Date: September 23, 2011  
Recommendation: We recommended that the Assistant Administrator for Air and Radiation update the 2004 fees rule to increase the amount of the Motor Vehicle and Engine Compliance Program (MVECP) costs it can recover.  
Status: The recommendation is open. The agency concurred with this recommendation. The statutory authority for the MVECP allows the administrator to exercise discretion in promulgating regulations for fees recovery. Thus, timing for reopening the fees rule will depend on the administrator's discretion to consider various factors, including how best to deploy extremely constrained program staff resources in light of many pressing agency priorities. OAR has started planning for a new fees rule as part of the program prioritization and budget processes, and initiated

formal work on rulemaking early in calendar year 2014. The completion date is December 31, 2018. We agreed with the agency's corrective action.  
Estimated Cost Savings: \$13 million

- 2) Report # 2008-P-0196 – “Making Better Use of Stringfellow Superfund Special Accounts”  
Report Date: July 9, 2008  
Recommendation: We recommended that the Region 9 Administrator reclassify or transfer to the Trust Fund, as appropriate, \$27.8 million (plus any earned interest less oversight costs) of the Stringfellow special accounts in annual reviews, and at other milestones including the end of FY 2010, when the record of decision (ROD) is signed and the final settlement is achieved.  
Status: The recommendation is open. The agency concurred with this recommendation. The agency reports that the initial delay of the ROD and reclassification of funds are due to contract stays, employee furloughs and additional investigative work needed. In 2012, a new area of groundwater contamination was identified that is commingling with and will directly impact the cleanup of existing Stringfellow contamination. The sitewide ROD has not yet been completed. The EPA requested (and the OIG has approved) an extension due to an expanded project scope and the delay to complete the additional remedial investigation necessary to achieve the final ROD. The estimated completion date is September 30, 2021. We agreed with the agency's corrective action.  
Estimated Funds Put to Better Use: In excess of \$27.8 million
  
- 3) Report No. 2007-P-00002 – “EPA Needs to Plan and Complete a Toxicity Assessment for the Libby Asbestos Cleanup”  
Report Date: December 5, 2006  
Recommendation: We recommended that the EPA fund and execute a comprehensive amphibole asbestos toxicity assessment to determine: (1) the effectiveness of the Libby removal actions; and (2) whether more actions are necessary. The toxicity assessment should include the effects of asbestos exposure on children. The EPA Science Advisory Board should review the toxicity assessment and report to the Office of the Administrator and the Libby Community Advisory Group whether the proposed toxicity assessment can sufficiently protect human health.  
Status: The recommendation is open. The agency concurred with this recommendation. The agency reports that a final report summarizing the National Health and Environmental Effects Research Lab (NHEERL) animal toxicity studies and their results is anticipated to be completed by August 30, 2016. The agency further reports that the goals of the seven NHEERL projects have been met and to date this research has resulted in over 20 peer-reviewed publications, with a few remaining publications in the finalization process. We agreed with the agency's corrective action.

Estimated Cost Savings: N/A, Desired outcome is improved protection of human health.

**3. Mr. Larsen, your testimony outlines the process your office goes through when the EPA does not agree with OIG recommendations.**

**a. When EPA does disagree with your office, what is typically the basis for their disagreements?**

Disagreements occur over (1) differences in interpretation about what the intent of OIG recommendations are; (2) different interpretations of EPA authority; (3) management priorities and risks; (4) different interpretations of what relevant law requires; (5) different views on the specific actions that can bring about needed improvements; and (6) different views about the need to take action or that an issue rises to the level requiring an OIG recommendation.

**b. Your testimony mentions two cases in the last five years where a disagreement required a resolution by the EPA Deputy Administrator, what were those two cases?**

The first instance of a dispute resolution was based on an Ottawa, Illinois, audit and three related EPA Region 5 audits that had been initiated by OIG hotline complaints (Report No. 11-R-0700 dated September 23, 2011). The dispute involved whether certain products being used in the EPA's expenditure of funds provided by the American Reinvestment and Recovery Act of 2009 were in compliance with Section 1605 of the Recovery Act or the "Buy American" provisions. Those provisions required that products used in Recovery Act projects must be "produced" in the United States. The OIG determined that Region 5 had wrongfully determined that certain equipment used in the city of Ottawa project (and three related Region 5 projects) were procured in compliance with those provisions. Further, the OIG concluded that the incorrect determinations were largely the result of flawed EPA Office of Water guidance about how to assess whether a product that had originated in a foreign country had been substantially transformed in the United States and therefore was in compliance with Buy American provisions. The agency's position was that there was legal support for the test devised by the Office of Water. The OIG did not agree. The OIG noted that the EPA relied on only two legal cases—out of a great multitude of cases that served to define substantial transformation. One case supported the OIG legal position, while the other case involved facts that were entirely unrelated to the fact patterns discussed in the OIG audit reports. EPA Deputy Administrator Bob Perciasepe decided that the agency's Recovery Act-related guidance was legally sufficient, and that the OIG's position would have—if accepted—required a burdensome review of over 3,000 agency projects.

In the second instance, the OIG determined in an April 2013 report, "Opportunities for EPA-Wide Improvements Identified During Review of a Regional Time and Materials Contract," that the EPA improperly paid a contractor approximately

\$1.5 million. The OIG found that the EPA contract failed to include provisions required under federal contract law and recommended that the EPA modify the contract to make it compliant and also recover the improper payment. The agency did not agree with that recommendation. The OIG's legal position was based on the Federal Acquisition Regulation (FAR), to which the EPA is subject. The OIG found that the EPA did not include a required FAR clause in the contract reviewed, and that the clause would have prevented the improper payment. The agency made a number of assertions, including one that stated the FAR clause was not required. In the final decision memo, EPA Deputy Administrator Perciasepe concluded that the EPA's contract was consistent with all agency and governmentwide regulations and laws. Additional records related to this report include [OIG and EPA legal arguments](#) and the [Deputy Administrator's final position](#).

**c. Do you have confidence the EPA Deputy Administrator, albeit an EPA-not an OIG-official is able to make an independent resolution decision?**

By definition, under the Inspector General (IG) Act, the EPA OIG is "an independent and objective unit" within the EPA. Also, the IG Act and case law interpreting the act over the years since its enactment make it clear that the OIG can make recommendations to the agency, but not engage in programmatic functions. Thus, it is ultimately up to the EPA to determine whether it accepts a recommendation from the OIG as the agency executes its programmatic responsibilities.

The IG Act does not prescribe a specific process for attempting to resolve disagreements between the OIG and the agency over an OIG recommendation. As I testified at the hearing, the EPA has chosen to address the resolution process through its Manual 2750. What the OIG needs from the process is to be able to present fully the basis and explanation for the OIG's recommendations. The process could probably be somewhat more streamlined and efficient, but it should not be turned into a contested case hearing with evidence and briefs. The OIG believes that the Manual 2750 process adequately allows us to inform senior agency officials, not just the agency component to which a recommendation is directed, of the reason the OIG believes an action is warranted or necessary, the factual and legal basis for the OIG's conclusion, and the value in taking the action. Then, as I have noted, the agency must make a decision about how it will execute its programmatic responsibilities. Even if the agency rejects the OIG recommendation, the recommendation remains part of the final report, and Congress will see it and can question the agency about the decision not to accept and implement it.

**d. How often does the EPA disagree with your report recommendations?**

In FY 2014, 81 percent of all OIG recommendations were resolved, and in FY 2015, 91 percent of all OIG recommendations were resolved. Our definition of a "resolved" recommendation is one to which the agency has agreed and has developed acceptable corrective actions.

4. Mr. Larsen, the OIG has issued several reports recommending EPA improve its hiring process. While EPA has yet to fully implement these recommendations, the Agency hosted a mass hiring campaign where nearly 500 people were hired in one month. Last September, I joined several of my colleagues on this Committee in a letter to Administrator McCarthy on its mass hiring campaign raising many of the concerns expressed by the OIG.

- a. What is the OIG doing to ensure EPA implements these recommendations in a timely fashion?

The OIG issued its report No. 15-P-0253, titled "Improvements Needed by EPA to Reduce Risk in Employee Hiring Process," is dated August 3, 2015. That report had one recommendation to: "Review and revise EPA Human Resource Bulletin 08-007B, Quality Assurance in the Hiring Process, to enhance internal controls for vetting prior employment, verifying awards/professional certifications and contacting references." The agency has a responsibility to timely implement recommendations, and the OIG follows up by checking MATS for the status of the recommendation. The original planned completion date for this recommendation was September 30, 2015. A revised bulletin was drafted and in the review stage. However, the agency revised the completion date to June 30, 2016, to allow additional time to reconcile comments and conduct the final, including a legal, review. As of July 7, 2016, the human resources office had concerns about the policy draft being overly burdensome, especially in regard to the reference checking requirements for summer interns and applicants already employed by the EPA. The EPA's Office of Administration and Resources Management will work with stakeholders on a compromise. Working with stakeholders delayed completion of the policy to the fourth quarter of FY 2016.

- b. Is the OIG planning to review the hiring process EPA used during the mass hiring campaign last fall? If not, why?

We are not planning to do a further review at this time. Management action has not been completed on the recommendation in the audit report described above in the response to part "a" of this question. In addition, an audit of hiring that took place a year ago is unlikely to yield sufficient return on investment that would justify such a review.

5. Mr. Larsen, as you may recall, last year, we raised concerns over the OIG's hydraulic fracturing report and whether that review was outside OIG's authority and expertise. That final report recommended EPA essentially take new regulatory action.

- a. How does the OIG ensure its recommendations do not have policy implications and remain focused on your mission of promoting efficiency and detecting waste, fraud, and abuse?

The reasons the OIG initiated the hydraulic fracturing review include:

- In 2009, in response to public concerns and anticipated growth in the oil and gas industries, Congress requested that the EPA examine the relationship between hydraulic fracturing and drinking water sources.
- While the EPA's Office of Research and Development has reported some progress toward completing this congressionally requested study, there had been delays, and the study—6 years later—was not yet complete. This led to OIG concerns that EPA may not be effectively discharging its oversight role.
- The EPA has taken enforcement actions, and thus invested EPA resources, to respond to reports of hydraulic fracturing fluids leaking into groundwater in Pennsylvania, Texas and North Dakota.
- It has been recognized by many parties that the practice of hydraulic fracturing and horizontal drilling has experienced large growth in recent years. The United States has vast reserves of natural gas that are commercially viable as a result of advances in horizontal drilling and hydraulic fracturing technologies. A growth in hydraulic fracturing, and public and congressional concerns, combined with slow EPA action in some areas and uncertainty about the EPA's investment in enforcement in this area, led us to initiate our review.

The OIG's final report on hydraulic fracturing ("Enhanced EPA Oversight and Action Can Further Protect Water Resources From the Potential Impacts of Hydraulic Fracturing") did not make recommendations for new regulatory action. Rather, the OIG's report identified that an existing EPA proposed rule on the need for a chemical disclosure program was sitting idle because the EPA had failed to develop a timeline for addressing public comments on the proposed rule.

The OIG does not direct agency operations or determine its policy. The OIGs are responsible for conducting audits and investigations relating to the programs and operations of our respective agencies for the purpose of promoting economy, efficiency, and effectiveness, and preventing and detecting fraud and abuse in those programs and operations. Recommendations to the EPA that are designed to promote economy, efficiency and effectiveness, and to prevent fraud, waste and abuse, could have policy implications depending upon the actions the EPA takes to address shortcomings that the OIG has identified.

**Senator Sullivan:**

6. Both the OIG and GAO testimony reveals that EPA is slow to implement their recommendations. This is deeply concerning as both the OIG and GAO are in the midst of conducting massive reviews and investigations into the Animus River spill and the water crisis in Flint, Michigan, what were exposed last year.
- a. Given EPA's track record for slow implementation of your recommendations, what level of confidence can we have that EPA will take the necessary steps to fully and timely implement recommendations coming out of your review on Gold King Mine and Flint?

The OIG has conducted oversight of past disasters and emergency situations that the EPA has been required to respond to, including the World Trade Center collapse; Hurricanes Katrina, Rita, and Sandy; and the British Petroleum Gulf Oil spill. We have made recommendations that have been implemented. The OIG believes that the EPA has, over time, increased its responsiveness to OIG reviews and recommendations on these complicated and visible matters that have major impacts on our citizens. During the OIG's work on the Gold King Mine and Flint issues, we have received cooperation from the agency and access to information. Senior EPA officials have acknowledged in public testimony the OIG's work on these issues and have taken steps to initiate OIG reviews of these issues.

Senator ROUNDS. Mr. Larsen, thank you for your testimony. We will now hear from Mr. Alfredo Gomez. Mr. Gomez, you may begin.

**STATEMENT OF ALFREDO GOMEZ, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT TEAM, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. GOMEZ. Chairman Rounds, Ranking Member Markey, and members of the Subcommittee, good afternoon. I am pleased to be here today to discuss the status of recommendations GAO has made to the U.S. Environmental Protection Agency.

As you have both noted, the mission of EPA is to protect human health and the environment. We have conducted reviews focused on various aspects of EPA's programs and operations, and through these reviews we have made numerous recommendations to improve EPA's performance and the efficiency and effectiveness of its programs and operations.

My statement today focuses on two main areas: first, the status of EPA's implementation of GAO's recommendations from fiscal years 2006 through 2015, and how these recommendations relate to EPA programs and operations; and, No. 2, benefits realized by EPA based on our work.

As part of our process, we followup on recommendations we have made and report their status to Congress. Agencies have a responsibility to monitor and maintain accurate records on the status of our recommendations. We then followup with EPA at least once a year to determine the extent to which our recommendations have been implemented and the benefits that have been realized. We consider a recommendation implemented when EPA has taken actions that address the issue or deficiency we have identified.

With regard to the first area on the status of GAO recommendations, we found that of the 325 recommendations we made EPA had implemented 174. The remaining 151 recommendations remain open or not implemented. For recommendations that we made over a 4-year period, that is, from Fiscal Year 2006 to 2011, EPA had implemented 77 percent. For recommendations made within the last 4 years, that is, from Fiscal Year 2012 to 2015, EPA had implemented 17 percent.

Experience has shown that it takes time for some recommendations to be implemented. It is for this reason that we actively track unaddressed or open recommendations for 4 years.

The 325 recommendations fall into six categories, such as EPA management and operations, water-related issues, and environmental contamination and cleanup. With regard to the 151 recommendations that EPA has not yet implemented, 70 percent of these recs we made in the last 4 years and mainly concern EPA management and operations and water-related issues.

For example, in 2014, we reported on EPA's Regulatory Impact Analyses, or RIAs, which are analyses of the benefits and costs of proposed regulations. We found that the information that EPA included and presented in the RIAs was not always clear. We recommended that EPA enhance the Agency's review process for RIAs to ensure that information for selected elements is transparent and clear, such as when discussing regulatory alternatives. While EPA



agreed with this recommendation, the recommendation remains open until we see evidence that EPA has taken action to enhance its review process.

We have also identified many benefits, such as programmatic and process improvements based on EPA taking actions on our recommendations. For example, we issued several reports on drinking water and wastewater infrastructure issues. In particular, we reported on the drinking water and wastewater infrastructure needs of rural and small communities.

We found that these communities face potentially duplicative application requirements when applying to multiple State and Federal programs, making it more costly and time-consuming to complete the application process. We recommended that EPA work with the U.S. Department of Agriculture to develop a uniform preliminary engineering report template, a key step in the application process, and they have done so.

In summary, our recommendations provide a good opportunity to improve the Government's fiscal position, better serve the public, and make Government programs more efficient and effective. EPA's implementation of our recommendations will help the Agency continue to improve its performance and the efficiency and effectiveness of its operations.

We will continue to work with Congress to monitor and draw attention to this important issue.

Chairman Rounds, Ranking Member Markey, and members of the Subcommittee, that completes my statement. I would be happy to answer any questions.

[The prepared statement of Mr. Gomez follows:]

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United States Government Accountability Office

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Testimony

Before the Subcommittee on Superfund,  
Waste Management, and Regulatory  
Oversight, Committee on Environment  
and Public Works, U.S. Senate

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For Release on Delivery  
Expected at 3:00 p.m. ET  
Tuesday, June 14, 2016

## ENVIRONMENTAL PROTECTION

### Status of GAO Recommendations to EPA

Statement of Alfredo Gómez, Director,  
Natural Resources and Environment

## GAO Highlights

Highlights of GAO-16-722T, a testimony before the Subcommittee on Superfund, Waste Management, and Regulatory Oversight, Committee on Environment and Public Works, U.S. Senate

### Why GAO Did This Study

EPA's mission is to protect human health and the environment. To accomplish this mission, EPA develops and enforces environmental regulations, awards grants, and studies environmental issues, among other things. GAO has conducted reviews focused on various aspects of EPA's programs and operations. Through this work, GAO has made numerous recommendations to improve EPA's performance and the efficiency and effectiveness of its programs and operations.

GAO continuously engages with executive branch agencies to ensure its recommendations are implemented. For example, GAO regularly follows up with agencies on its recommendations and posts their status online. Also, in 2015, GAO sent letters to the heads of key executive branch agencies, including EPA, identifying unimplemented recommendations that warrant priority attention.

This statement discusses (1) the status of EPA's implementation of GAO recommendations for fiscal years 2006 through 2015 and how these recommendations relate to EPA programs and operations and (2) benefits realized by EPA based on GAO's work, including through implementing GAO's recommendations. It is based on GAO's prior work from October 2005 through September 2015 and an analysis of recommendations GAO made to EPA during this period from data maintained in an internal database used to track the status of GAO recommendations.

View GAO-16-722T. For more information, contact Alfredo Gómez at (202) 512-3641 or [gomezj@gao.gov](mailto:gomezj@gao.gov).

June 14, 2016

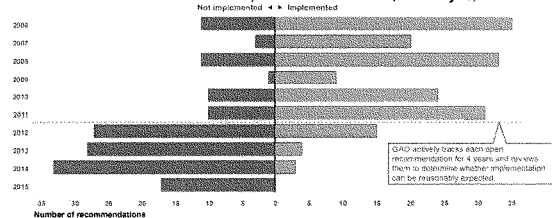
## ENVIRONMENTAL PROTECTION

### Status of GAO Recommendations to EPA

#### What GAO Found

As of May 23, 2016, the U.S. Environmental Protection Agency (EPA) had implemented 174 of the 325 recommendations GAO made in fiscal years 2006 through 2015. EPA had not yet implemented the remaining 151 recommendations. The figure below shows the status of the 325 recommendations, which fall into six broad categories that relate to EPA programs and operations. These are: (1) management and operations; (2) water issues; (3) environmental contamination and cleanup; (4) toxics, chemical safety, and pesticides; (5) air quality, climate change, and energy efficiency; and (6) public health and environmental justice. Almost three-fourths of the recommendations fall into the first three categories and include actions to better manage grants, improve regulation of drinking water contaminants, and better manage hazardous waste cleanup. Most of the recommendations not yet implemented concern EPA management and operations and water issues. For example, regarding management and operations, EPA has not yet implemented GAO's recommendation to improve procedures for processing congressional committee requests for scientific advice. Similarly, for water issues, EPA has not fully implemented GAO's recommendations related to providing oversight guidance and working with states on water quality protection measures.

Status of GAO Recommendations to EPA, Fiscal Years 2006-2015, as of May 23, 2016



Source: GAO. GAO-16-722T.

GAO has identified many benefits—programmatic and process improvements and financial benefits—based on EPA taking actions on these recommendations and related work. For example, in 2010, GAO found that EPA had not maintained attention to children's health issues through agency strategies and priorities since 2000. GAO recommended that EPA's strategic plan expressly articulate children-specific goals, objectives, and targets. EPA agreed, and on September 30, 2010, EPA submitted its fiscal year 2011-2015 strategic plan to Congress, which included children's health and environmental justice as a cross-cutting strategy, and children-specific goals. In addition, GAO has identified financial benefits from implementation of its recommendations and related work. For example, in 2008, GAO identified an error in EPA's calculation of reimbursable indirect costs for hazardous waste cleanup. EPA acknowledged the error and published revised indirect costs rates. As a result, GAO estimated in 2010 that EPA had recovered or would recover \$42.2 million.

United States Government Accountability Office

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Chairman Rounds, Ranking Member Markey, and Members of the Subcommittee:

Thank you for the opportunity to testify on the status of recommendations GAO has made to the U.S. Environmental Protection Agency (EPA). As you know, the mission of EPA is to protect human health and the environment, with the purpose of protecting all Americans from significant risks to human health and the environment where they live, learn, and work, among other things. To accomplish this mission, EPA develops and enforces environmental regulations; awards grants to state environmental programs, non-profits, educational institutions, and others; studies environmental issues; and sponsors partnerships, among other things. We have conducted reviews focused on various aspects of EPA's programs and operations. For example, we have conducted reviews on EPA programs to manage toxic chemicals, improve water infrastructure, and clean up hazardous waste sites. We have also conducted reviews focused on aspects of EPA's operations, such as workforce planning, processes for developing and enforcing regulations, and mechanisms for securing information. Through these reviews, we have made numerous recommendations to improve EPA's performance and the efficiency and effectiveness of its programs and operations. Today I will discuss (1) the status of EPA's implementation of our recommendations from fiscal year 2006 through fiscal year 2015 and how these recommendations relate to EPA programs and operations and (2) benefits realized by EPA based on our work, including through implementation of our recommendations.

This statement is based on our reports issued from October 2005 through September 2015.<sup>1</sup> To determine the number and status of recommendations we made to EPA from October 1, 2005, through September 30, 2015, we analyzed data from our internal database that maintains information on the status of recommendations we have made to all agencies. To determine how these recommendations relate to EPA programs and operations, we developed categories based on areas of EPA's work and its organizational structure. Two analysts then independently categorized each of the recommendations and resolved any differences. To identify benefits realized by EPA in implementing our recommendations, we also relied on our internal database for information

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<sup>1</sup>App. 1 lists the products upon which this statement is based.

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on financial and non-financial benefits. To assess the reliability of the recommendations and benefits data, we reviewed documentation about the database used to produce the data and interviewed our staff members responsible for maintaining and updating the database. We found the data to be sufficiently reliable for the purposes of this testimony.<sup>2</sup> Detailed information about the scope and methodology used to conduct our prior work can be found in each of our issued reports.

The work on which this statement is based was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Many of our reports and testimonies include recommendations that, if acted upon, may result in tangible benefits for the U.S. taxpayer by improving the federal government's efficiency, effectiveness, and accountability. Implemented recommendations can result in financial or nonfinancial benefits for the federal government.<sup>3</sup> An estimated financial benefit is based on actions taken in response to our recommendations, such as reducing government expenditures, increasing revenues, or reallocating funds to other areas. For example, in fiscal year 2015, our work across the federal government resulted in \$74.4 billion in financial benefits. Other benefits that result from our work cannot be measured in dollar terms, and we refer to them as nonfinancial or other benefits. These benefits are linked to specific recommendations or other work that we completed over several years and could include improvements to agency programs, processes, and policies. During fiscal year 2015, we recorded a total of 1,286 other benefits government-wide that resulted

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<sup>2</sup>EPA officials also reviewed the data.

<sup>3</sup>For the purpose of this testimony, we consider financial benefits to be net benefits—that is, estimates of financial benefits that have been reduced by the costs associated with taking the action that we recommended.

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from our work, including improved services to the public and government business operations.<sup>4</sup>

As part of our responsibilities under generally accepted government auditing standards, we continuously follow up on recommendations we have made and report their status to Congress. Agencies also have a responsibility to monitor and maintain accurate records on the status of our recommendations.<sup>5</sup> After issuing a report, we follow up with audited agencies at least once a year to determine the extent to which our recommendations have been implemented and the benefits that have been realized.<sup>6</sup> During this follow-up, we identify what additional actions, if any, would be needed to address our recommendations. A recommendation is considered implemented when actions have been taken that, consistent with our recommendation, address the issue or deficiency we identified and upon which the recommendation is based. Experience has shown that it takes time for some recommendations to be implemented. For this reason, we actively track unaddressed (i.e., open) recommendations for 4 years and review them to determine whether implementation can be reasonably expected. The review includes consideration of alternative strategies the agency may have for

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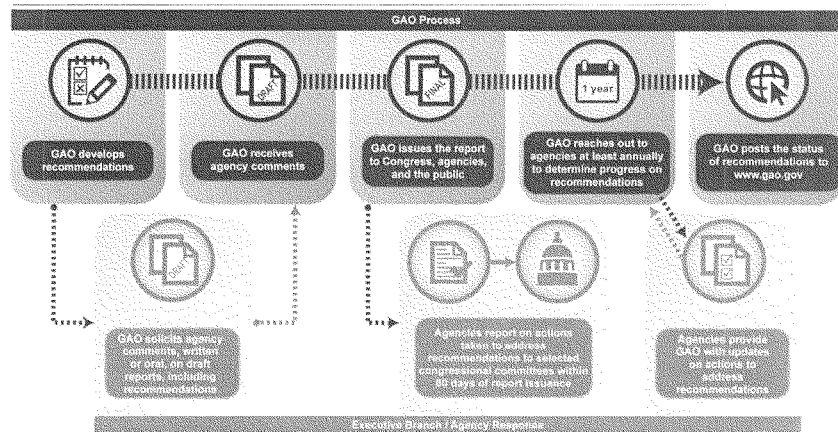
<sup>4</sup>GAO, *Performance and Accountability Report Fiscal Year 2015*, GAO-16-3SP (Washington, D.C.: Nov. 16, 2015).

<sup>5</sup>These responsibilities are detailed in both the Office of Management and Budget (OMB) Circulars A-50 and A-123. For example, OMB Circular A-50 provides the policies and procedures for use by executive agencies when considering reports issued by GAO and inspectors general, other executive branch audit organizations, and nonfederal auditors where follow-up is necessary. OMB Circular A-123 addresses internal management control systems and requires that agencies track GAO recommendations and provide a response to Congress on actions taken on the recommendations. Specifically, among the requirements of Circular A-123 are that the agency (1) appoint a top-level audit follow-up official, (2) maintain accurate records on the status of recommendations, and (3) assign a high priority to following up on audit recommendations. In addition, when we issue a report containing recommendations to an agency, the agency head is required to submit a written statement of the actions taken in response to the recommendations to the Committee on Homeland Security and Governmental Affairs of the Senate and Committee on Oversight and Government Reform of the House of Representatives not later than 60 days after the date of the report. 31 U.S.C. § 720(b) (providing further that the statement shall be submitted to the Committees of Appropriations of both Houses of Congress in the first request for appropriations submitted more than 60 days after the date of the report).

<sup>6</sup>We work with agencies to establish processes for recommendation follow-up. We recently worked with EPA to revise our process to increase the frequency of follow-up from annually to semiannually.

implementing the recommendations. We will close the recommendation as not implemented if an agency has indicated that it was not planning to take action or we determined that it was unlikely that the agency would take action to address the recommendation. Figure 1 shows our process for monitoring and reporting on recommendations.

Figure 1: GAO's Process for Monitoring and Reporting on Recommendations



Source: GAO analysis. | GAO-16-722T

We maintain a publicly available database with information on the current status of most open recommendations.<sup>7</sup> The database allows searches by agency, congressional committee, or key words and is available at <http://www.gao.gov/openrecs.html>.

<sup>7</sup>Because of the sensitive or classified nature of certain recommendations, we are unable to include them in our publicly accessible database.

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In addition to our process for monitoring and reporting on recommendations, we use other mechanisms to encourage agencies to implement our recommendations in a timely manner. For example, in 2015, we undertook an effort to call attention to unimplemented recommendations that we believe warrant priority attention by the Secretary or agency heads at key departments and agencies. We sent letters to the heads of key executive branch agencies, including EPA, identifying these high priority recommendations and urging the agency head to continue to provide attention to these issues.

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**EPA Has  
Implemented 174 of  
325 GAO  
Recommendations,  
Which Relate to a  
Variety of EPA  
Programs and  
Operations**

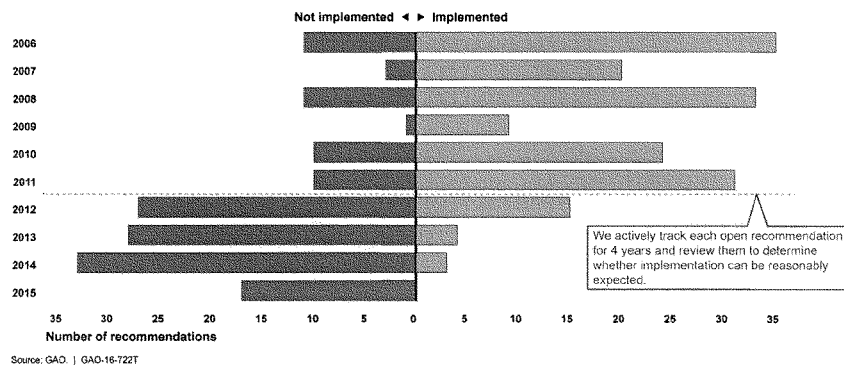
As of May 23, 2016, EPA had implemented 174 of the 325 recommendations we made in fiscal year 2006 through fiscal year 2015, and the recommendations fall into six broad categories that relate to EPA programs and operations. EPA had not yet implemented the remaining 151 recommendations.<sup>8</sup> Figure 2 shows the status of the 325 recommendations. For recommendations that we made over 4 years ago (i.e., fiscal years 2006 to 2011), EPA had implemented 77 percent. For recommendations made more recently within the last 4 years (i.e., fiscal years 2012 to 2015), EPA had implemented 17 percent.

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<sup>8</sup>GAO continually works with EPA to verify implementation of recommendations and close them out in our database, so the number of implemented recommendations can change on a daily basis. Also, some of these recommendations were addressed to other agencies in addition to EPA. Finally, the numbers of recommendations reported here do not include any recommendations to EPA that were sensitive or classified in nature.



Figure 2: Status of GAO Recommendations to EPA, Fiscal Years 2006 through 2015, as of May 23, 2016



The 325 recommendations we made to EPA in fiscal years 2006 through 2015 fall into six broad categories that relate to EPA programs and operations and generally align with many of the goals and strategies identified in EPA's Strategic Plan.<sup>9</sup> These six broad categories are: (1) management and operations; (2) water issues, which include water infrastructure, drinking water, water quality, and ecosystem restoration; (3) environmental contamination and cleanup, which includes environmental cleanup, pollution prevention, hazardous and other waste programs, and emergency management; (4) toxics, chemical safety, and pesticides; (5) air quality, climate change, and energy efficiency; and (6) public health and environmental justice. The percentage of recommendations implemented within each category ranged from 68 percent for the environmental contamination and cleanup category to 35 percent in the toxics, chemical safety, and pesticides category.<sup>10</sup> Figure 3

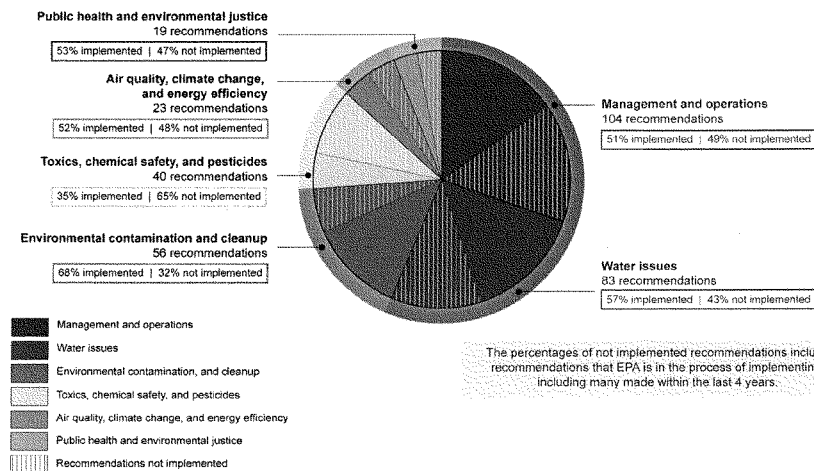
<sup>9</sup>EPA, *Fiscal Year 2014-2018 EPA Strategic Plan* (Washington, D.C.: Apr. 10, 2014).

<sup>10</sup>The percentages of implemented and not implemented recommendations include recommendations that EPA is in the process of implementing, including many made within the last 4 years.

shows the number of recommendations we identified in each of these categories and the percentage of recommendations within each category that has been implemented and not implemented.

**Figure 3: Categories of GAO Recommendations to EPA and Percent Implemented and Not Implemented, Fiscal Years 2006 through 2015, as of May 23, 2016**

Total Recommendations: 325



Source: GAO. | GAO-16-722T

Note: The percentages of implemented and not implemented recommendations include recommendations that EPA is in the process of implementing, including many made within the last 4 years.

Almost three-fourths of our recommendations from fiscal years 2006 through 2015 fall into three categories: management and operations, water issues, and environmental contamination and cleanup. The recommendations to EPA relating to management and operations included actions for better managing its grants, better coordinating management of its laboratories, and improving the agency's information security. Recommendations on water issues included actions targeted at

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improving the regulation of contaminants in drinking water, improving water quality and ecosystem health in regions such as the Great Lakes and Chesapeake Bay, and better managing water pollution from both point and nonpoint sources.<sup>11</sup> Recommendations related to environmental contamination and cleanup included actions for better managing cleanup at hazardous waste sites; enhancing responses to disasters, such as the World Trade Center collapse on September 11, 2001, and Hurricane Katrina in August 2005; and promoting proper disposal and recycling of electronic waste. The remaining quarter of the recommendations fell into the other three categories of toxics, chemical safety, and pesticides; air quality, climate change, and energy efficiency; and public health and environmental justice. Appendix I lists our reports from fiscal years 2006 through 2015 with recommendations to EPA, by category; the number of recommendations made to EPA in each of these reports; and the number of recommendations in each report that were implemented and not implemented as of May 23, 2016.

Of the 151 recommendations that EPA has not implemented, we made 105, or 70 percent, of these recommendations within the past 4 years (i.e., fiscal years 2012 to 2015) and 46, or 30 percent, earlier (i.e., fiscal years 2006 to 2011).<sup>12</sup> Most of the recommendations not yet implemented concern EPA management and operations and water issues. Some examples of more recent open recommendations in these categories include the following:

- **Management and operations:** In June 2015, we made four recommendations to EPA to help better ensure compliance with the Environmental Research, Development, and Demonstration Authorization Act of 1978, as amended, which requires that EPA's Science Advisory Board (SAB) provide both the EPA Administrator and designated congressional committees with scientific advice as

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<sup>11</sup>A point source discharges pollutants from a discrete point, such as a pipe carrying effluent from a wastewater treatment plant or an industrial facility. Nonpoint source pollution is water pollution from diffuse sources, such as runoff from farms or construction sites.

<sup>12</sup>In general, we continue to believe that our prior recommendations are valid and should be addressed. While we recognize that agencies need time to act on our recommendations, in our experience, recommendations that have not been implemented after 4 years are generally not implemented in subsequent years.

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requested.<sup>13</sup> Specifically, we recommended that EPA take steps to improve its procedures for processing congressional committee requests to the SAB for advice by (1) clarifying which EPA offices should receive and process congressional requests, (2) documenting procedures for reviewing congressional committee requests, (3) clarifying in policy documents when it is and is not appropriate for the EPA Administrator to forward advice to the requesting committee, and (4) specifying in policy documents how the SAB should respond to a congressional committee's request for scientific advice unrelated to an existing EPA charge question. In written comments on the report, EPA concurred with these recommendations and provided information on planned actions to address each recommendation. In an update provided by EPA in March 2016, an EPA official said that the agency is developing a written process to address these recommendations. The recommendations remain open pending finalization of the written process by the agency and our review to determine whether it meets the intent of our recommendations.

- **Management and operations:** In our 2014 report on EPA's Regulatory Impact Analyses (RIA), which are analyses of the benefits and costs of proposed regulations, we recommended, among other things, that EPA enhance the agency's review process for RIAs to ensure the transparency and clarity of information presented for selected elements such as clear descriptions of baselines and alternatives considered in and across RIAs.<sup>14</sup> In its written comments on our report, EPA generally agreed with all of our recommendations in the report, also noting then, and in a March 2016 update, that EPA stands behind the quality of its RIAs but will continue to strive to enhance transparency and clarity in the RIAs. This recommendation remains open pending evidence that EPA has taken action to enhance its review process as recommended. In addition, we also recommended that EPA identify and prioritize for research key categories of benefits and costs that the agency cannot currently monetize that, once monetized, would most enhance the agency's

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<sup>13</sup>GAO, *EPA's Science Advisory Board: Improved Procedures Needed to Process Congressional Requests for Scientific Advice*, GAO-15-500 (Washington, D.C.: June 4, 2015).

<sup>14</sup>GAO, *Environmental Regulation: EPA Should Improve Adherence to Guidance for Selected Elements of Regulatory Impact Analyses*, GAO-14-519 (Washington, D.C.: July 18, 2014).

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ability to consider economic trade-offs associated with different regulatory alternatives. In its comments on the report, EPA acknowledged the importance of making continual improvements in valuing the benefits and costs of its regulatory actions. Since our report, EPA has worked on several critical areas to advance economic valuation including a long-term effort to examine the factors affecting the estimated costs of regulations and convening a scientific panel on modeling economywide impacts, among other things. While EPA has made progress toward implementing this recommendation, it remains open pending the incorporation of these efforts into its RIAs.

- **Water issues:** In May 2012, we reported on a key EPA program under section 319 of the Clean Water Act to address water pollution from nonpoint sources.<sup>15</sup> Under this program, EPA provides grants to states to implement programs and fund projects that address nonpoint source pollution. We found that EPA regional offices had varied widely in the extent of their oversight and the amount of influence they had exerted over state nonpoint source pollution management programs. In addition, EPA's primary measures of effectiveness of state management programs may not always demonstrate the achievement of program goals, which are to eliminate remaining water quality problems and prevent new threats from creating future water quality problems in water bodies currently of high quality. To help protect water quality, we recommended that EPA: (1) provide guidance to its regional offices on overseeing state programs and, (2) in its revised reporting guidelines to states, emphasize measures that more accurately reflect the overall health of targeted water bodies and demonstrate states' focus on protecting high-quality water bodies, where appropriate.<sup>16</sup> EPA agreed with these recommendations in its comments on the report. In 2013, EPA issued final guidelines laying out expectations for EPA regional oversight and issued a memorandum to its regional managers highlighting their oversight responsibilities. In addition, according to EPA, the agency is working with states on new measures for protecting unimpaired waters, among other things. Although EPA has taken action, these recommendations remain open pending our review of the guidelines' implementation and

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<sup>15</sup>GAO, *Nonpoint Source Water Pollution: Greater Oversight and Additional Data Needed for Key EPA Water Program*, GAO-12-335 (Washington, D.C.: May 31, 2012).

<sup>16</sup>We included these recommendations in our 2015 letter to EPA highlighting recommendations warranting priority attention.

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completion of EPA's efforts to work with states on water quality protection measures.

- **Water issues:** In May 2011, we reported on EPA's implementation of requirements under 1996 amendments to the Safe Drinking Water Act to determine whether regulation of additional contaminants, not already regulated, is warranted.<sup>17</sup> Among other things, we found that EPA issued health advisories for several contaminants it determined did not warrant regulation. These health advisories are provided to inform states, localities, and public water systems that action may be required on their part to protect public health from exposure to contaminants in public drinking water, and establish concentrations of contaminants at which adverse health effects are not anticipated to occur over specific durations of exposure.<sup>18</sup> However, several factors could hamper efforts by states and localities to use the health advisories in a timely and effective manner to protect public health. These factors include the lack of actual comprehensive data on the occurrence of these contaminants in public water systems, widespread state and local government budget constraints, and, in some cases, limitations in states' ability to require systems to conduct testing. We recommended that EPA: (1) determine whether the use of health advisories provide sufficient information on unregulated contaminants to support timely and effective actions by states, localities, public water systems, and the public to ensure the safety of public drinking water, and if not, (2) develop a plan to more effectively communicate such information to these entities. In its comments on the report, EPA agreed with our recommendation, stating that it would determine whether and how to revise the advisories to better serve states, localities, public water systems, and the public. In a June 2016 update, EPA officials identified actions the agency plans to take during fiscal years 2016 and 2017 in response to the recommendation, including documenting a process for updating health advisories and issuing concise updated health advisories. This recommendation remains open pending implementation of these

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<sup>17</sup>GAO, *Safe Drinking Water Act: EPA Should Improve Implementation of Requirements on Whether to Regulate Additional Contaminants*, GAO-11-254 (Washington, D.C.: May 27, 2011).

<sup>18</sup>Drinking water health advisories are not legally enforceable standards, and according to EPA, are subject to change as new information becomes available.

actions and our review and determination that actions taken have met the intent of the recommendation.

### EPA's Implementation of GAO Recommendations and Related Work Has Resulted in Programmatic and Process Improvements and Financial Benefits

We have identified many benefits—programmatic and process improvements and financial benefits—based on EPA taking actions on our recommendations and related work. From fiscal years 2006 through 2015, we have identified improvements to EPA's programs and operations in categories such as public health and environmental justice; water issues; and toxics, chemical safety, and pesticides. In addition, we have identified financial benefits resulting from the implementation of our recommendations and our related work.<sup>19</sup> The following are examples of programmatic and process improvements and financial benefits we have identified based on actions EPA took in response to our recommendations.

#### Programmatic Improvements

- **Water issues:** Under the Clean Water Act, EPA currently regulates 58 industrial categories of wastewater pollution, such as petroleum refining, fertilizer manufacturing, and coal mining, with technology-based regulations called effluent guidelines. Such guidelines are applied in permits to limit the pollutants that facilities may discharge. The Clean Water Act also calls for EPA to revise the guidelines when appropriate. EPA has done so, for example, to reflect advances in treatment technology or changes in industries. EPA uses a two-phase process to identify industrial categories needing new or revised effluent guidelines, including an initial "screening" phase in which EPA ranks industrial categories according to the total toxicity of their

<sup>19</sup>Our findings and recommendations can produce measurable financial benefits for the federal government after the Congress or agencies act on them and government expenditures are reduced or funds are reallocated to other areas. To calculate our financial benefits we rely on estimates from non-GAO sources. These sources are typically the agency that acted on our work, a congressional committee, or the Congressional Budget Office.

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wastewater.<sup>20</sup> In September 2012, we concluded that limitations in EPA's screening phase may have led the agency to overlook some industrial categories that warrant further review for new or revised effluent guidelines.<sup>21</sup> For example, during its screening phase, EPA had not considered the availability of advanced treatment technologies for most industrial categories. We recommended that EPA modify the screening phase of its review process to include thorough consideration of information on the treatment technologies available to industrial categories as it considered revisions to its screening and review process. In its comments on the report, EPA agreed that factoring treatment technology information into its reviews would be valuable. In September 2014, EPA published a combined Final 2012 and Preliminary 2014 Effluent Guidelines Program report that discussed revisions to its screening process in response to our report. Specifically, EPA stated that it recognized the need to consider the availability of treatment technologies, process, changes, or pollution-prevention practices in the screening phase of its process and said that it is targeting new data sources to provide such information. In July 2015, EPA published its "Final 2014 Effluent Guidelines Program" with a diagram showing the change to EPA's screening process to include screening of treatment technologies.

- **Public health and environmental justice:** In January 2010, we found that EPA had not maintained attention to children's health through agency strategies and priorities. In 1996, EPA had created a national agenda on children's health, and its 1997 and 2000 strategic plans highlighted children's health as a key cross-agency program. However, the agency had not updated the agenda since 1996, and the focus on children was absent from the agency's 2003, 2006, and

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<sup>20</sup>EPA's 2002 draft Strategy for National Clean Water Industrial Regulations was the foundation for EPA's process. In the first, or "screening," phase, EPA uses data from two EPA databases to rank industrial categories according to the total toxicity of their wastewater. Using this ranking, public comments, and other considerations, EPA has identified relatively few industrial categories posing the highest hazard for the next, or "further review," phase. In this further review phase, EPA evaluates the categories to identify those that are appropriate for new or revised guidelines because treatment technologies are available to reduce pollutant discharges.

<sup>21</sup>GAO, *Water Pollution: EPA Has Improved Its Review of Effluent Guidelines but Could Benefit from More Information on Treatment Technologies*, GAO-12-845 (Washington, D.C.: Sept. 10, 2012).



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2009 draft strategic plans.<sup>22</sup> We recommended, among other things, that EPA's strategic plan, which was under development at the time, expressly articulate children-specific goals, objectives, and targets. EPA agreed to implement our recommendation. On September 30, 2010, EPA submitted its fiscal year 2011-2015 strategic plan to Congress, which included children's health and environmental justice as a cross-cutting strategy.<sup>23</sup> The strategic plan contains children-specific goals including reducing the concentration of particular chemicals, such as those in certain pesticides, in children by 2014. EPA's annual action plans support the strategic plan goals. The action plans also contain children-specific goals, such as advancing the use of Integrated Pest Management (IPM) in settings where children are present, with the long-term goal that every school in America be managed under a verifiable IPM program.<sup>24</sup>

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Process Improvements

- **Toxics, chemical safety, and pesticides:** EPA's Integrated Risk Information System (IRIS) contains EPA's scientific position on the potential human health effects of exposure to more than 540 chemicals. In 2008, we examined EPA's efforts to address a backlog of 70 ongoing IRIS assessments, that, as of December 2007, most of which had been in progress for more than 5 years, and found that EPA's productivity problems stemmed from several key factors, including required reviews of IRIS assessments by the Office of Management and Budget (OMB) and other agencies; EPA's management decision in some cases to suspend ongoing assessments while waiting for additional scientific studies to be completed; and the compounding effects of delays—even one delay can have a domino effect, requiring the process to essentially be

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<sup>22</sup>GAO, *Environmental Health: High-level Strategy and Leadership Needed to Continue Progress toward Protecting Children from Environmental Threats*, GAO-10-205 (Washington, D.C.: Jan. 28, 2010).

<sup>23</sup>In its fiscal year 2014-2018 strategic plan, EPA identified children's environmental health as an ongoing priority area.

<sup>24</sup>IPM focuses on long-term prevention of pests or their damage through a combination of techniques, such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties (e.g., planting pest-resistant crop varieties), paired with monitoring to reduce unnecessary pesticide applications.

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repeated to incorporate changing science.<sup>25</sup> We recommended, among other things, that EPA establish a policy that: (1) endorsed conducting IRIS assessments on the basis of peer-reviewed scientific studies available at the time of the assessment, and (2) developed criteria that only allows assessments to be suspended, to await the completion of scientific studies, under exceptional circumstances.<sup>26</sup> In commenting on our report, EPA agreed to consider our recommendations in revising the IRIS development process.<sup>27</sup> In addition to other changes made since our 2008 report, EPA announced "stopping rules" in July 2013 that outlined (1) a cut-off point for accepting new studies for individual IRIS assessments and raising scientific issues related to the assessment, and (2) criteria under which the agency will suspend assessments to await new studies. EPA stated that these changes are intended to increase the number of IRIS assessments completed each year and provide more accurate assessment development timelines to the public.

- **Water issues:** Rural and small communities could require \$190 billion over the coming decades for water and wastewater infrastructure, according to federal agencies. In our body of work on water and wastewater infrastructure, we have concluded that improved coordination and funding could enhance federal efforts to help meet

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<sup>25</sup>GAO, *Chemical Assessments: Low Productivity and New Interagency Review Process Limit the Usefulness and Credibility of EPA's Integrated Risk Information System*, GAO-08-440 (Washington, D.C.: Mar. 7, 2008).

<sup>26</sup>This recommendation remains open pending implementation of EPA's "stopping rules" and our review and determination that actions taken by EPA have met the intent of the recommendation. We included this recommendation in our 2015 letter to EPA highlighting recommendations warranting priority attention.

<sup>27</sup>We added EPA's processes for assessing and controlling toxic chemicals as a high-risk area in our 2009 biennial status report on governmentwide risk areas requiring increased attention by executive agencies and Congress. The high-risk designation stemmed from our conclusion that EPA has insufficient chemical assessment data from the IRIS program, as well as under the Toxic Substances Control Act, to determine whether it should establish controls to limit public exposure to many chemicals that may pose substantial health risks.

communities' needs.<sup>28</sup> Specifically, in October 2012, we concluded that given the reliance of rural communities on federal grants and loans to meet their water and wastewater infrastructure needs, it was important to make the most of limited federal funds to help as many communities as possible and to eliminate the potential duplication of effort by communities when they apply for funds.<sup>29</sup> To improve coordination and reduce the potential for inefficiencies and duplication of effort, we recommended, among other things, that EPA and the Department of Agriculture ensure the timely completion of an interagency effort to develop guidelines to assist states in developing their own uniform preliminary engineering reports—a step in the application process for assistance programs—to meet federal and state requirements for assistance.<sup>30</sup> Although EPA neither agreed nor disagreed with the recommendation, EPA and the Department of Agriculture issued guidance in January 2013 that made it easier for rural communities to apply for funding and are working with states to adopt the guidelines.

#### Financial Benefits

- **Environmental contamination and cleanup:** During the course of work related to a July 2008 report on the funding and reported costs of Superfund enforcement and administrative activities,<sup>31</sup> we reviewed EPA's methodology for calculating the indirect costs—or administrative costs for managing the Superfund program—that EPA charged responsible parties for in fiscal year 2006. In conducting this work, we identified two spending codes for which associated

<sup>28</sup>GAO, *Rural Water Infrastructure: Federal Agencies Provide Funding but Could Increase Coordination to Help Communities*, GAO-15-450T (Washington, D.C.: Feb. 27, 2015, reissued on Nov. 6, 2015); GAO, *Rural Water Infrastructure: Additional Coordination Can Help Avoid Potentially Duplicative Application Requirements*, GAO-13-111 (Washington, D.C.: Oct. 16, 2012); GAO, *Rural Water Infrastructure: Improved Coordination and Funding Processes Could Enhance Federal Efforts to Meet Needs in the U.S.-Mexico Border Region*, GAO-10-126 (Washington, D.C.: Dec. 18, 2009); GAO, *Water Resources: Four Federal Agencies Provide Funding for Rural Water Supply and Wastewater Projects*, GAO-07-1094 (Washington, D.C.: Sept. 7, 2007).

<sup>29</sup>GAO-13-111.

<sup>30</sup>Preliminary engineering reports describe the proposed project, including its purpose, features of the proposed location, condition of any existing facilities, alternative approaches considered, design features, and costs.

<sup>31</sup>GAO, *Superfund: Funding and Reported Costs of Enforcement and Administrative Activities*, GAO-08-841R (Washington, D.C.: July 18, 2008).

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administrative costs had not been carried over into EPA's calculations of the indirect cost rate applicable to each region for fiscal year 2006.<sup>32</sup> As a result of this error, the percentage that EPA was charging responsible parties for indirect costs associated with fiscal year 2006 spending was lower than it should have been. To correct the error, EPA published revised indirect cost rates for fiscal years 2005 and 2006 in May 2008. EPA acknowledged that correcting this error would result in more money being potentially recoverable from responsible parties. In 2010, we estimated that the additional amount EPA had recovered (or would recover) had a present worth value of about \$42.2 million.<sup>33</sup>

- **Management and operations:** Beginning in fiscal year 2000, we have issued a body of work aimed at raising the level of attention given to improper payments across government.<sup>34</sup> Through our work, we found that improper payments were a long-standing, widespread, and significant problem in the federal government and contributed to Congress passing the Improper Payments Information Act of 2002 (IPIA). This act, as amended, requires that all agencies annually identify and review programs and activities that may be susceptible to significant improper payments, provisions that coincide with recommendations we made that agencies estimate, reduce, and publicly report improper payments.<sup>35</sup> Subsequently, in 2005, EPA began reporting on the improper payment rate for the Clean Water

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<sup>32</sup>We identified this error and EPA corrected it during the course of our work. Therefore, we did not report on it in GAO-08-841R.

<sup>33</sup>Precise data were not available on the exact amount of the additional fiscal year 2005 and 2006 indirect costs that EPA had recovered (or would recover) as a result of correcting the error we identified.

<sup>34</sup>GAO, *Improper Payments: Progress Made but Challenges Remain in Estimating and Reducing Improper Payments*, GAO-09-628T (Washington, D.C.: Apr. 22, 2009); GAO, *Improper Payments: Status of Agencies' Efforts to Address Improper Payment and Recovery Auditing Requirements*, GAO-08-438T (Washington, D.C.: Jan. 31, 2008); GAO, *Improper Payments: Agencies' Fiscal Year 2005 Reporting under the Improper Payments Information Act Remains Incomplete*, GAO-07-92 (Washington, D.C.: Nov. 14, 2006); GAO, *Financial Management: Coordinated Approach Needed to Address the Government's Improper Payments Problems*, GAO-02-749 (Washington, D.C.: Aug. 9, 2002); GAO, *Financial Management: Increased Attention Needed to Prevent Billions in Improper Payments*, GAO/AIMD-00-10 (Oct. 29, 1999).

<sup>35</sup>See, for example, GAO-02-749.

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and Drinking Water State Revolving Funds.<sup>36</sup> By 2009, the most recent year for which we identified financial benefits from the agency addressing improper payments, EPA reported that its total improper payment error rates for the State Revolving Funds declined by 0.16 percent since the first reporting. This resulted in about a \$4.5 million decrease in improper payments in Clean Water and Drinking Water State Revolving Funds program payments for fiscal years 2008 and 2009.<sup>37</sup>

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In conclusion, as the fiscal pressures facing the government continue, so too does the need for executive branch agencies to improve the efficiency and effectiveness of government programs and activities. Our recommendations provide a significant opportunity to improve the government's fiscal position, better serve the public, and make government programs more efficient and effective. EPA's implementation of our outstanding recommendations will help the agency continue to improve its performance and the efficiency and effectiveness of its operations. We will continue to work with Congress to monitor and draw attention to these important issues.

Chairman Rounds, Ranking Member Markey, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to answer questions that you may have at this time.

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<sup>36</sup>The federal government provides some financial support to communities for their drinking water and wastewater infrastructure projects. The largest sources of federal funding are EPA's Clean Water State Revolving Fund (SRF) program, created under the Water Quality Act of 1987, which provides funds to repair and replace wastewater infrastructure, and EPA's Drinking Water SRF program, created under the Safe Drinking Water Act Amendments of 1996, which provides funds to upgrade and replace drinking water infrastructure.

<sup>37</sup>We confirmed with EPA officials that there were no offsetting implementation costs associated with this program. Data used to calculate these benefits were derived from EPA's reported independent estimates of improper payments.

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**GAO Contacts and  
Staff  
Acknowledgements**

If you or your staff members have any future questions about this testimony, please contact Alfredo Gómez, Director, at (202) 512-3841 or [gomezj@gao.gov](mailto:gomezj@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Key contributors to this testimony include Barb Patterson, Assistant Director; Megan Darnley; Cindy Gilbert; Anne Hobson; Richard Johnson; Celia R. Mendive; Marie Suding; Sara Sullivan; and Kiki Theodoropoulos.

## Appendix I: GAO Reports from Fiscal Years 2006 through 2015 with Recommendations to EPA, by Category

**Table 1: GAO Reports Containing Recommendations to EPA, by Category, and Status of Recommendations as of May 23, 2016**

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Management and Operations</b>	<b>53</b>	<b>51</b>	<b>104</b>
GAO-06-95 Indian Tribes: EPA Should Reduce the Review Time for Tribal Requests to Manage Environmental Programs	1	—	1
GAO-06-625 Grants Management: EPA Has Made Progress in Grant Reforms but Needs to Address Weaknesses in Implementation and Accountability	7	—	7
GAO-06-831 Enterprise Architecture: Leadership Remains Key to Establishing and Leveraging Architectures for Organizational Transformation	1	—	1
GAO-07-883 Environmental Protection: EPA-State Enforcement Partnership Has Improved, but EPA's Oversight Needs Further Enhancement	3	1	4
GAO-08-265 Health and Safety Information: EPA and OSHA Could Improve Their Processes for Preparing Communication Products	3	1	4
GAO-08-304 Environmental Protection: EPA Needs to Ensure That Best Practices and Procedures Are Followed When Making Further Changes to Its Library Network	4	—	4
GAO-08-742 Federal Records: National Archives and Selected Agencies Need to Strengthen E-Mail Management	1	1	2
GAO-08-925 Information Technology: Agencies Need to Establish Comprehensive Policies to Address Changes to Projects' Cost, Schedule, and Performance Goals	—	1	1
GAO-08-1111R Environmental Enforcement: EPA Needs to Improve the Accuracy and Transparency of Measures Used to Report on Program Effectiveness	6	—	6
GAO-09-205 Federal Rulemaking: Improvements Needed to Monitoring and Evaluation of Rules Development as Well as to the Transparency of OMB Regulatory Reviews	1	—	1
GAO-09-446 Biofuels: Potential Effects and Challenges of Required Increases in Production and Use	1	—	1
GAO-10-202 Information Security: Agencies Need to Implement Federal Desktop Core Configuration Requirements	2	—	2

Appendix I: GAO Reports from Fiscal Years  
2006 through 2015 with Recommendations to  
EPA, by Category

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Management and Operations (cont.)</b>			
GAO-10-413 Workforce Planning: Interior, EPA, and the Forest Service Should Strengthen Linkages to Their Strategic Plans and Improve Evaluation	—	2	2
GAO-10-947 Environmental Protection Agency: EPA Needs to Complete a Strategy for Its Library Network to Meet Users' Needs	3	3	6
GAO-11-347 Environmental Protection Agency: To Better Fulfill Its Mission, EPA Needs a More Coordinated Approach to Managing Its Laboratories	6	1	7
GAO-11-548R Mentor-Protege Programs Have Policies That Aim to Benefit Participants but Do Not Require Postagreement Tracking	—	1	1
GAO-11-565 Data Center Consolidation: Agencies Need to Complete Inventories and Plans to Achieve Expected Savings	2	—	2
GAO-11-605 Social Media: Federal Agencies Need Policies and Procedures for Managing and Protecting Information They Access and Disseminate	2	—	2
GAO-12-629 Information Technology Cost Estimation: Agencies Need to Address Significant Weaknesses in Policies and Practices	—	2	2
GAO-12-635 EPA Regulations and Electricity: Better Monitoring by Agencies Could Strengthen Efforts to Address Potential Challenges	—	1	1
GAO-12-692 Human Capital: HHS and EPA Can Improve Practices Under Special Hiring Authorities	1	—	1
GAO-12-696 Information Security: Environmental Protection Agency Needs to Resolve Weaknesses	8	4	12
GAO-12-791 Organizational Transformation: Enterprise Architecture Value Needs to Be Measured and Reported	—	2	2
GAO-13-115 Environmental Protection: EPA Should Develop a Strategic Plan for Its New Compliance Initiative	—	2	2



Appendix I: GAO Reports from Fiscal Years  
2006 through 2015 with Recommendations to  
EPA, by Category

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Management and Operations (cont.)</b>			
GAO-14-65 Information Technology: Additional OMB and Agency Actions Are Needed to Achieve Portfolio Savings	—	3	3
GAO-14-249 Petroleum Refining: Industry's Outlook Depends on Market Changes and Key Environmental Regulations	—	2	2
GAO-14-413 Federal Software Licenses: Better Management Needed to Achieve Significant Savings Government-Wide	—	6	6
GAO-14-519 Environmental Regulation: EPA Should Improve Adherence to Guidance for Selected Elements of Regulatory Impact Analyses	—	4	4
GAO-14-612 Information Security: Agencies Need to Improve Oversight of Contractor Controls	—	2	2
GAO-14-713 Data Center Consolidation: Reporting Can Be Improved to Reflect Substantial Planned Savings	1	—	1
GAO-15-431 Telecommunications: Agencies Need Better Controls to Achieve Significant Savings on Mobile Devices and Services	—	3	3
GAO-15-500 EPA's Science Advisory Board: Improved Procedures Needed to Process Congressional Requests for Scientific Advice	—	4	4
GAO-15-617 Information Technology Reform: Billions of Dollars in Savings Have Been Realized, but Agencies Need to Complete Reinvestment Plans	—	1	1
GAO-15-618 Grants Management: EPA Has Opportunities to Improve Planning and Compliance Monitoring	—	4	4
<b>Water Issues</b>	<b>47</b>	<b>36</b>	<b>83</b>
GAO-06-96 Chesapeake Bay Program: Improved Strategies Are Needed to Better Assess, Report, and Manage Restoration Progress	3	3	6
GAO-06-148 Drinking Water: EPA Should Strengthen Ongoing Efforts to Ensure That Consumers Are Protected from Lead Contamination	10	1	11

Appendix I: GAO Reports from Fiscal Years  
2006 through 2015 with Recommendations to  
EPA, by Category

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Water Issues (cont.)</b>			
GAO-06-390 Securing Wastewater Facilities: Utilities Have Made Important Upgrades but Further Improvements to Key System Components May Be Limited by Costs and Other Constraints	1	—	1
GAO-06-639 Clean Water: Better Information and Targeted Prevention Efforts Could Enhance Spill Management in the St. Clair-Detroit River Corridor	4	—	4
GAO-07-479 Clean Water: Further Implementation and Better Cost Data Needed to Determine Impact of EPA's Storm Water Program on Communities	1	—	1
GAO-07-591 Great Lakes: EPA and States Have Made Progress in Implementing the BEACH Act, but Additional Actions Could Improve Public Health Protection	2	1	3
GAO-10-549 Nanotechnology: Nanomaterials Are Widely Used in Commerce, but EPA Faces Challenges in Regulating Risk	1	—	1
GAO-10-604 Recovery Act: States' and Localities' Uses of Funds and Actions Needed to Address Implementation Challenges and Bolster Accountability	1	—	1
GAO-11-254 Safe Drinking Water Act: EPA Should Improve Implementation of Requirements on Whether to Regulate Additional Contaminants	13	4	17
GAO-11-346 Environmental Health: Action Needed to Sustain Agencies' Collaboration on Pharmaceuticals in Drinking Water	1	—	1
GAO-11-381 Drinking Water: Unreliable State Data Limit EPA's Ability to Target Enforcement Priorities and Communicate Water Systems' Performance	1	3	4
GAO-11-802 Chesapeake Bay: Restoration Effort Needs Common Federal and State Goals and Assessment Approach	3	1	4
GAO-12-335 Nonpoint Source Water Pollution: Greater Oversight and Additional Data Needed for Key EPA Water Program	—	2	2
GAO-12-845 Water Pollution: EPA Has Improved Its Review of Effluent Guidelines but Could Benefit from More Information on Treatment Technologies	3	—	3

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Appendix I: GAO Reports from Fiscal Years  
2006 through 2015 with Recommendations to  
EPA, by Category

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Water Issues (cont.)</b>			
GAO-13-39 Water Quality: EPA Faces Challenges in Addressing Damage Caused by Airborne Pollutants	—	1	1
GAO-13-111 Rural Water Infrastructure: Additional Coordination Can Help Avoid Potentially Duplicative Application Requirements	2	1	3
GAO-13-797 Great Lakes Restoration Initiative: Further Actions Would Result in More Useful Assessments and Help Address Factors That Limit Progress	1	6	7
GAO-14-80 Clean Water Act: Changes Needed If Key EPA Program Is to Help Fulfill the Nation's Water Quality Goals	—	4	4
GAO-14-103 Drinking Water: EPA Has Improved Its Unregulated Contaminant Monitoring Program, but Additional Action Is Needed	—	3	3
GAO-14-555 Drinking Water: EPA Program to Protect Underground Sources from Injection of Fluids Associated With Oil and Gas Production Needs Improvement	—	4	4
GAO-15-567 State Revolving Funds: Improved Financial Indicators Could Strengthen EPA Oversight	—	2	2
<b>Environmental Contamination and Cleanup</b>	<b>38</b>	<b>18</b>	<b>56</b>
GAO-06-45 Environmental Protection: More Complete Data and Continued Emphasis on Leak Prevention Could Improve EPA's Underground Storage Tank Program	—	1	1
GAO-06-47 Electronic Waste: Strengthening the Role of the Federal Government in Encouraging Recycling and Reuse	2	1	3
GAO-06-99 Hazardous Waste: EPA Needs to Clarify the Types of Mercury Waste That Can Be Treated and Disposed of Using the Debris Regulations	2	—	2
GAO-07-37 Recycling: Additional Efforts Could Increase Municipal Recycling	1	—	1
GAO-07-152 Leaking Underground Storage Tanks: EPA Should Take Steps to Better Ensure the Effective Use of Public Funding for Cleanups	4	—	4
GAO-07-651 Hurricane Katrina: EPA's Current and Future Environmental Protection Efforts Could Be Enhanced by Addressing Issues and Challenges Faced on the Gulf Coast	5	1	6

GAO-16-722T

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EPA, by Category

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Environmental Contamination and Cleanup (cont.)</b>			
GAO-07-763 Aboveground Oil Storage Tanks: Observations on EPA's Economic Analyses of Amendments to the Spill Prevention, Control, and Countermeasure Rule	1	—	1
GAO-07-1091 World Trade Center: EPA's Most Recent Test and Clean Program Raises Concerns That Need to Be Addressed to Better Prepare for Indoor Contamination Following Disasters	3	—	3
GAO-08-71 Hazardous Materials: EPA May Need to Reassess Sites Receiving Asbestos- Contaminated Ore from Libby, Montana, and Should Improve Its Public Notification Process	3	—	3
GAO-08-482 Aboveground Oil Storage Tanks: More Complete Facility Data Could Improve Implementation of EPA's Spill Prevention Program	—	3	3
GAO-08-944 Concentrated Animal Feeding Operations: EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality from Pollutants of Concern	—	1	1
GAO-08-1044 Electronic Waste: EPA Needs to Better Control Harmful U.S. Exports through Stronger Enforcement and More Comprehensive Regulation	4	—	4
GAO-09-278 Superfund: Greater EPA Enforcement and Reporting Are Needed to Enhance Cleanup at DOD Sites	1	—	1
GAO-09-656 Superfund: Litigation Has Decreased and EPA Needs Better Information on Site Cleanup and Cost Issues to Estimate Future Program Funding Requirements	2	—	2
GAO-10-348 Superfund: Interagency Agreements and Improved Project Management Needed to Achieve Cleanup Progress at Key Defense Installations	2	1	3
GAO-10-380 Superfund: EPA's Estimated Costs to Remediate Existing Sites Exceed Current Funding Levels, and More Sites Are Expected to Be Added to the National Priorities List	1	—	1
GAO-10-626 Electronic Waste: Considerations for Promoting Environmentally Sound Reuse and Recycling	1	1	2
GAO-11-513 Biofuels: Challenges to the Transportation, Sale, and Use of Intermediate Ethanol Blends	1	—	1

Appendix I: GAO Reports from Fiscal Years  
2006 through 2015 with Recommendations to  
EPA, by Category

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Environmental Contamination and Cleanup (cont.)</b>			
GAO-11-514 Hazardous Waste: Early Goals Have Been Met in EPA's Corrective Action Program, but Resource and Technical Challenges Will Constrain Future Progress	1	—	1
GAO-12-74 Electronic Waste: Actions Needed to Provide Assurance That Used Federal Electronics Are Disposed of in an Environmentally Responsible Manner	—	1	1
GAO-12-488 Anthrax: DHS Faces Challenges in Validating Methods for Sample Collection and Analysis	1	—	1
GAO-12-505 Phosphate Mining: Oversight Has Strengthened, but Financial Assurances and Coordination Still Need Improvement	—	1	1
GAO-12-544 Uranium Mining: Opportunities Exist to Improve Oversight of Financial Assurances	1	—	1
GAO-12-585 Oil Dispersants: Additional Research Needed, Particularly on Subsurface and Arctic Applications	1	—	1
GAO-13-252 Superfund: EPA Should Take Steps to Improve Its Management of Alternatives to Placing Sites on the National Priorities List	—	4	4
GAO-14-323 Uranium Contamination: Overall Scope, Time Frame, and Cost Information Is Needed for Contamination Cleanup on the Navajo Reservation	1	—	1
GAO-15-35 Hazardous Waste: Agencies Should Take Steps to Improve Information on USDA's and Interior's Potentially Contaminated Sites	—	3	3
<b>Toxics, Chemical Safety, and Pesticides</b>	<b>14</b>	<b>26</b>	<b>40</b>
GAO-06-595 Human Health Risk Assessment: EPA Has Taken Steps to Strengthen Its Process, but Improvements Needed in Planning, Data Development, and Training	3	—	3
GAO-08-440 Chemical Assessments: Low Productivity and New Interagency Review Process Limit the Usefulness and Credibility of EPA's Integrated Risk Information System	5	3	8
GAO-09-353 Biomonitoring: EPA Needs to Coordinate Its Research Strategy and Clarify Its Authority to Obtain Biomonitoring Data	3	—	3

Appendix I: GAO Reports from Fiscal Years  
2006 through 2015 with Recommendations to  
EPA, by Category

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Toxics, Chemical Safety, and Pesticides (cont.)</b>			
GAO-10-549 Nanotechnology: Nanomaterials Are Widely Used in Commerce, but EPA Faces Challenges in Regulating Risk	2	3	5
GAO-12-42 Chemical Assessments: Challenges Remain with EPA's Integrated Risk Information System Program	—	6	6
GAO-13-145 Pesticides: EPA Should Take Steps to Improve Its Oversight of Conditional Registrations	—	3	3
GAO-13-249 Toxic Substances: EPA Has Increased Efforts to Assess and Control Chemicals but Could Strengthen Its Approach	—	3	3
GAO-13-369 Chemical Assessments: An Agencywide Strategy May Help EPA Address Unmet Needs for Integrated Risk Information System Assessments	—	3	3
GAO-14-274 Chemical Safety: Actions Needed to Improve Federal Oversight of Facilities with Ammonium Nitrate	1	1	2
GAO-14-289 Pesticide Safety: Improvements Needed in EPA's Good Laboratory Practices Inspection Program	—	4	4
<b>Air Quality, Climate Change, and Energy Efficiency</b>			
GAO-06-97 Climate Change: EPA and DOE Should Do More to Encourage Progress Under Two Voluntary Programs	1	—	1
GAO-06-669 Clean Air Act: EPA Should Improve the Management of Its Air Toxics Program	—	5	5
GAO-08-944 Concentrated Animal Feeding Operations: EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality from Pollutants of Concern	2	1	3
GAO-08-980 Indoor Mold: Better Coordination of Research on Health Effects and More Consistent Guidance Would Improve Federal Efforts	2	—	2
GAO-08-1080 Climate Change: Federal Actions Will Greatly Affect the Viability of Carbon Capture and Storage As a Key Mitigation Option	1	—	1
GAO-09-446 Biofuels: Potential Effects and Challenges of Required Increases in Production and Use	1	—	1

GAO-16-722T

Appendix I: GAO Reports from Fiscal Years  
2006 through 2015 with Recommendations to  
EPA, by Category

Category and report	Number of recommendations, fiscal years 2006 through 2015		
	Implemented	Not implemented	Total
<b>Air Quality, Climate Change, and Energy Efficiency (cont.)</b>			
GAO-10-336 Vehicle Fuel Economy: NHTSA and EPA's Partnership for Setting Fuel Economy and Greenhouse Gas Emissions Standards Improved Analysis and Should Be Maintained	3	—	3
GAO-11-888 Energy Star: Providing Opportunities for Additional Review of EPA's Decisions Could Strengthen the Program	1	—	1
GAO-12-79 Green Building: Federal Initiatives for the Nonfederal Sector Could Benefit from More Interagency Collaboration	—	1	1
GAO-12-261 Diesel Pollution: Fragmented Federal Programs That Reduce Mobile Source Emissions Could Be Improved	—	1	1
GAO-12-590 Air Pollution: EPA Needs Better Information on New Source Review Permits	—	2	2
GAO-13-135 Energy Efficiency: Better Coordination among Federal Programs Needed to Allocate Testing Resources	1	—	1
GAO-13-242 Climate Change: Future Federal Adaptation Efforts Could Better Support Local Infrastructure Decision Makers	—	1	1
<b>Public Health and Environmental Justice</b>	<b>10</b>	<b>9</b>	<b>19</b>
GAO-08-1155T Environmental Health: EPA Efforts to Address Children's Health Issues Need Greater Focus, Direction, and Top-Level Commitment	2	—	2
GAO-09-60 Genetically Engineered Crops: Agencies Are Proposing Changes to Improve Oversight, but Could Take Additional Steps to Enhance Coordination and Monitoring	—	1	1
GAO-10-205 Environmental Health: High-level Strategy and Leadership Needed to Continue Progress toward Protecting Children from Environmental Threats	8	—	8
GAO-12-77 Environmental Justice: EPA Needs to Take Additional Actions to Help Ensure Effective Implementation	—	4	4
GAO-13-254 Environmental Health: EPA Has Made Substantial Progress but Could Improve Processes for Considering Children's Health	—	4	4
<b>Total</b>	<b>174</b>	<b>151</b>	<b>325</b>

Source: GAO

(100891)

GAO-16-722T





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Senate Committee on Environment and Public Works  
 Subcommittee on Superfund, Waste Management, and Regulatory Oversight  
 hearing entitled, “Oversight of the Environmental Protection Agency’s Progress in  
 Implementing Inspector General and Government Accountability Office  
 Recommendations”  
 June 14, 2016  
 Questions for Director Alfredo Gomez

**Chairman Inhofe:**

1. Mr. Gomez, at the hearing I asked you about the report that EPA is required to submit to Congress, the President, and GAO, as a result of GAO’s finding that EPA violated the Anti-Deficiency Act in their use of social media to promote their water rule.
  - a. Since the hearing, have you reached out to EPA on this report?
  - b. Please provide an update on the status of the report.
  - c. What reasons, if any, has EPA provided you for the delay?

**GAO Response:** On June 21, 2016, officials from EPA’s Office of General Counsel told us that the agency is working on the final stages of interagency discussion about the report. These officials expected that the agency would submit the report within a few weeks. We plan to follow up with EPA on the status of this report toward the end of July, if the agency does not submit the report by that time.

2. Mr. Gomez, at the hearing I asked you about a 2014 GAO report that found that EPA did not properly consider the impact of its regulations on employment in its Regulatory Impact Analysis. At the time, EPA had not fully implemented all recommendations from that report.
  - a. Since the hearing, have you reached out to EPA on this request?
  - b. Please provide an update on EPA’s status in implementing the open recommendations from that report.
  - c. What reasons, if any, has EPA provided you for the delay?

**GAO Response:** We made four recommendations to EPA in our July 2014 report on Regulatory Impact Analyses (RIA).<sup>1</sup> My testimony statement reflected the status of these recommendations as of May 23, 2016, at which time all four were open. Since that time, we have closed, as implemented, one recommendation from that report. Specifically, EPA has implemented our recommendation that the agency improve the accuracy, transparency, and clarity of the information included in the executive summaries of each RIA. The other three recommendations to EPA remain open. According to EPA officials, the agency has continued to work within its existing processes to promote transparency and clarity in RIAs. In addition, according to EPA, the agency is working on several critical areas of economic valuation to enhance its ability to

<sup>1</sup>GAO, *Environmental Regulation: EPA Should Improve Adherence to Guidance for Selected Elements of Regulatory Impact Analyses*, [GAO-14-519](#) (Washington, D.C.: July 18, 2014).

consider economic trade-offs associated with different regulatory alternatives, and has undertaken some efforts to improve the agency's approach to estimating the effects of regulations on employment. Additional information on actions EPA has taken to date may be found on our website at <http://www.gao.gov/products/GAO-14-519>. EPA's actions indicate that the agency has taken some steps to address the recommendations, but they remain open pending additional evidence that EPA's actions have fully met the intent of our recommendations. We expect to receive our next update from EPA on the status of these recommendations in the fall of 2016.

3. **Mr. Gomez, at the hearing my colleague Sen. Boozman asked you about a 2015 GAO report that found the EPA science advisory board can better respond to Congressional requests for scientific advice. At the time, EPA had not fully implemented all recommendations from that report.**
  - a. Since the hearing, have you reached out to EPA on this request?
  - b. Please provide an update on EPA's status in implementing the open recommendations from that report.
  - c. What reasons, if any, has EPA provided you for the delay?

**GAO Response:** We last received an update from EPA in April 2016 on the four recommendations in our June 2015 report on EPA's Science Advisory Board (SAB).<sup>2</sup> According to EPA officials, the recommendations had not been fully implemented at that time because EPA has not finalized a process and criteria for considering Congressional requests to the SAB. Specifically, EPA was still reviewing internally the written process that describes which offices will receive and respond to requests from congressional committees specified in the Environmental Research, Development and Demonstration Authorization Act, and criteria that will guide evaluation of such requests. According to EPA officials, as of June 24, 2016, an updated response to GAO's recommendations was being reviewed in EPA's Office of Congressional and Intergovernmental Relations. We have not yet received this updated response.

4. **Mr. Gomez, at the hearing my colleague Sen. Boozman asked you about a requirement in last year omnibus spending bill for EPA to develop a policy statement on conflicts of interest regarding its Science Advisory Board and submit to GAO. While the statement was technically due in March, at the hearing you indicated it was still outstanding.**
  - a. Since the hearing, have you reached out to EPA on this policy statement?
  - b. Please provide an update on EPA's status in submitting such policy statement to GAO.
  - c. What reasons, if any, has EPA provided you for the delay?

<sup>2</sup>GAO, *EPA's Science Advisory Board: Improved Procedures Needed to Process Congressional Requests for Scientific Advice*, [GAO-15-500](#) (Washington, D.C.: June 4, 2015).

**GAO Response:** EPA has not submitted the policy statement to GAO and has not provided reasons for why the agency has not done so. According to EPA officials, as of June 24, 2016, the policy statement was being reviewed by EPA's Chief of Staff.

5. **Mr. Gomez, last year's omnibus spending bill included a requirement for a report on federal climate change funding, which was technically due two weeks ago. This requirement was also in last year's appropriations bill and went ignored. This is concerning given that the last report revealed federal climate change funding from FY2009 to FY2014 totaled more than \$120 billion. The fact the Administration continues to deny transparency and ignore the law, which requires this common sense reporting, is a huge concern. As you know, part of GAO's mission is to help improve the performance of the federal government. Clearly in this instance, the federal government is not performing well at fulfilling its congressionally required obligation to simply report climate change funding.**

- a. **Are you aware of this outstanding report?**
- b. **Is this something GAO could look into?**

**GAO Response:** Yes, we are aware of the language regarding this report from the President in the Consolidated Appropriations Act, 2016. GAO issued a report in May 2011 on federal funding for climate change activities and is just beginning an engagement to update this work.<sup>3</sup>

6. **Mr. Gomez, your testimony says that GAO "actively track[s] unaddressed recommendations for 4 years."**
  - a. **Why does GAO stop monitoring unimplemented recommendations after four years?**
  - b. **How was that time frame determined?**
  - c. **How and when did that practice begin?**
  - d. **Do you think EPA has an incentive to delay implementation since GAO stops reviewing after 4 years?**

**GAO Response:** We have been using a 4-year timeframe to measure the implementation rate of our recommendations for at least 20 years. In our experience, recommendations that have not been implemented after 4 years are generally not implemented in subsequent years. However, if a recommendation made to EPA remains relevant after 4 years and EPA is taking some action, we will not close the recommendation and will continue to track it until the recommendation is implemented or EPA stops taking action to implement it. In addition, we may conduct follow-up work that revisits past recommendations. When agencies continue to disagree or have a limited response to our recommendations, we may work with Congress to urge action through the congressional oversight, authorization, appropriations, and budget processes. Congress can hold

<sup>3</sup>GAO, *Climate Change: Improvements Needed to Clarify National Priorities and Better Align Them with Federal Funding Decisions*, [GAO-11-317](#) (Washington, D.C.: May 20, 2011).

hearings, withhold funds, or take other actions to provide incentives for the agencies to act. Congressional use of our work sends an unmistakable message to agencies that Congress considers these issues a priority.

7. **Mr. Gomez, your testimony explains that after issuing a report, GAO follows up with the audited agency at least once a year to assess implementation and you recently revised that process with the EPA to follow-up semiannually.**
  - a. **Why does GAO only follow up with the Agency annually on recommendations?**
  - b. **Outside of GAO's annual follow-up, is there informal consultation throughout the year with the Agency to monitor their progress?**

**GAO Response:** Our policy is to follow up with agencies at least annually to determine the extent to which our recommendations have been implemented. With EPA, we follow up on open recommendations semiannually. Through this process, we send an email to EPA with a tracking spreadsheet that includes all reports with open recommendations. We ask EPA to enter a status update for each of the reports in the spreadsheet and send it back. In addition, we often work with EPA program offices throughout the year to follow up on or clarify the updates we receive through the semiannual process, and when we begin new engagements related to prior recommendations, we generally review the status of any of those prior recommendations that remain unimplemented.

8. **Mr. Gomez, your testimony mentions "other mechanisms to encourage agencies to implement our recommendations in a timely manner." For instance, in 2015, you wrote agencies on open recommendations that warrant priority attention.**
  - a. **How were those priority recommendations selected?**
  - b. **Was EPA responsive to GAO's letter?**
  - c. **Did GAO observe greater implementation of the recommendations in the letter than other unimplemented recommendations?**

**GAO Response:** We consider the priority recommendations identified in our letters to agencies as those that may significantly improve government operations. In selecting them, we considered factors such as whether the implementation of the recommendation would:

- Realize large dollar savings for the federal government;
- Aid in congressional decision-making on major issues;
- Substantially improve major government programs;
- Eliminate mismanagement, fraud, and abuse;
- Ensure that programs comply with laws; or
- Make progress toward addressing an issue identified in our High Risk Series.<sup>4</sup>

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<sup>4</sup>GAO, *High Risk Series: An Update*, [GAO-15-290](#) (Washington, D.C.: Feb. 11, 2015).

After we sent our August 2015 letter to EPA, the agency implemented 3 of the 21 priority open recommendations we identified. Two of these recommendations related to improving EPA's Integrated Risk Information System assessment process, which provides fundamental scientific information EPA needs to develop human health risk assessments to toxic chemicals. The third recommendation related to addressing limitations in EPA's effluent limitation guidelines program, which limits the pollutants that facilities are permitted to discharge to surface waters and wastewater treatment plants. In addition, EPA made some progress toward implementing other priority recommendations.

The priority recommendations highlighted in our 2015 letter reflected a subset of our open recommendations to EPA made in reports from fiscal years 2008 through 2014. We have not compared the implementation of the priority recommendations with all open recommendations to EPA, which span a broader period.

**9. Mr. Gomez, when there is a disagreement between GAO and the EPA over recommendations, how is that resolved?**

**a. How often and under what basis does the EPA typically dispute a recommendation?**

**GAO Response:** We provide EPA the opportunity to review and comment on recommendations before our reports are issued, and we publish the agency's comments in our final reports. While we do not systematically track how often EPA disagrees with our recommendations, we document these instances in our reports. Specifically, if EPA disagrees with a recommendation in commenting on a draft report—and we disagree with the agency's position—we explain in our report the disagreement and state our position and why we believe the recommendation is relevant and valid. In instances in which EPA has disagreed with our recommendations, the basis of EPA's disagreement has included factors such as the agency believed the recommended action would require considerable effort, that the recommendation was not workable in the context of the agency's process and could be resource intensive, and that the recommendation would better be directed to another agency. For each of these examples, we documented in the report why we believed each recommendation remained relevant and valid, despite the agency's basis for disagreement.

**10. Mr. Gomez, your testimony mentions that there are a disproportionate number of recommendations for water issues and management and operations of EPA. It is important for us to understand whether this is a result of congressional requests or GAO self-initiated work.**

**a. What proportion of GAO's work is congressionally requested?**

**b. How does GAO identify self-initiated work?**

**GAO Response:** Of our 107 reports containing recommendations from fiscal years 2006 through 2015 listed in Appendix I of the testimony statement, one was based on work initiated by GAO and the rest were based on congressionally requested or mandated work. GAO reserves a limited portion of its resources for work initiated under the Comptroller General's authority to: (1) invest in significant current or emerging issues that may affect the nation's future and (2) address issues

of broad interest to the Congress, with an emphasis on longer-range, crosscutting, and transformational issues. In fiscal year 2015, we devoted 95 percent of our engagement resources to work requested or mandated by the Congress. We devoted the remaining 5 percent of engagement resources to work initiated under the Comptroller General's authority. Much of this work addressed various challenges that are of broad-based interest to the Congress, such as disaster assistance; our 2015 fragmentation, overlap, and duplication report; and the federal, state, and local government fiscal outlook.

**11. Mr. Gomez, in your testimony, the section discussing unimplemented recommendations, the four reports highlighted coincidentally were all Congressionally-requested reports. It is important for us to understand whether your testimony sought to focus on congressional requests or if there is a trend in agency responsiveness to congressionally requested work.**

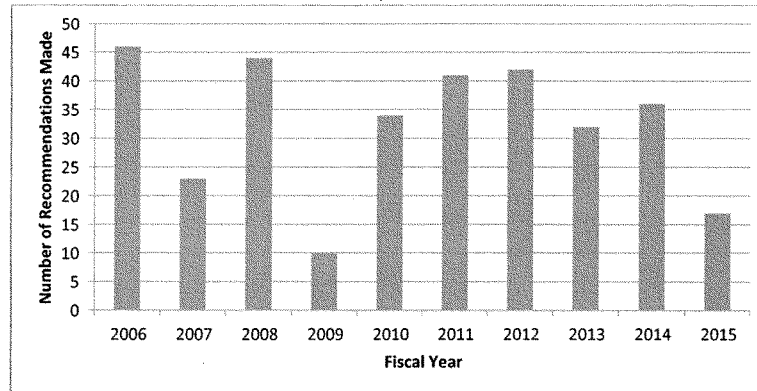
- a. What proportion of EPA unimplemented recommendations is based on reports requested by Congress?
- b. Have you observed any trends in EPA implementation of recommendations from congressionally requested work versus GAO-initiated or statutorily authorized work?

**GAO Response:** Of our 107 reports containing recommendations from fiscal years 2006 through 2015 listed in Appendix I of the testimony statement, one was based on work initiated by GAO and the rest were based on congressionally requested or mandated work. The one report based on GAO-initiated work includes five recommendations that EPA has implemented and one recommendation that EPA has not implemented. Since the vast majority of our recommendations to EPA are from congressionally requested or mandated work, we have not observed any trends in EPA's implementation of recommendations stemming from different sources of work.

**12. Has the amount of recommendations put forward by GAO each year, over the last ten years, remained stable, increased or decreased?**

**GAO Response:** As shown in the figure, the number of recommendations we made to EPA ranged from 10 in fiscal year 2009 to 46 in fiscal year 2006, with an average of 32.5 recommendations made each year from fiscal years 2006 through 2015. These data show no discernable trend in the number of recommendations made during this period. The numbers of recommendations we made in each year is partially driven by individual reports with many recommendations. For example, the 4 years with the highest number of recommendations (i.e., fiscal years 2006, 2008, 2011, and 2012) each included a report with at least seven recommendations.

Number of GAO Recommendations to EPA, Fiscal Years 2006-2015



**13. Has GAO observed any trends for implementing or not implementing recommendations at EPA during an administration transition?**

**GAO Response:** We have not observed any such trends during administration transitions. During such transitions, we have provided information and analyses, based on our work, to help incoming administrations identify important issues requiring urgent attention for each agency, identify major cost-saving opportunities, and bring attention to management challenges across the government, among other things. In addition, our coordination with EPA to follow up on recommendations remains consistent through administration transitions.

**Senator Sullivan:**

**14. Mr. Gomez—**Almost every week, we have witnesses before this Committee that bemoan the EPA's regulatory agenda. Not only is the agency incredibly slow to issue permits on a variety of projects, but the inefficiencies are often extremely costly. While this certainly affects large companies who must pour considerable resources into the seemingly endless and highly complex permitting processes, the real victims are everyday Americans who simply cannot afford to engage with the agency for very long, if at all.

**Can you elaborate on any recommendations GAO has provided the agency to streamline or simplify these permitting and regulatory processes?**

**GAO Response:** In a July 2014 report on EPA's Regulatory Impact Analyses (RIA), we noted that RIAs provide affected government agencies, Congress, and the public with important information about the potential effects of new regulations, which can result in significant benefits



and costs.<sup>5</sup> Because the information in RIAs can be complex and technical, we concluded that it is important that agencies clearly present how they arrived at their estimates and conclusions. However, EPA did not always adhere to Office of Management and Budget (OMB) guidance that provides best practices for conducting regulatory analyses and communicating this information. In addition, we found that EPA faced challenges in two key areas: (1) monetizing certain benefits and costs and (2) estimating the effects of regulations on employment. These challenges limited the usefulness of some of the estimates in EPA's RIAs. We made four recommendations to EPA to improve future adherence to OMB guidance for conducting RIAs and to enhance the usefulness of EPA's RIAs. Three of these recommendations remain open. Additional details about these recommendations can be found on our website at <http://www.gao.gov/products/GAO-14-519>.

In addition, in June 2012, we made two recommendations to EPA to help the agency improve implementation of the Clean Air Act process for issuing New Source Review (NSR) permits to electricity generating units that burn fossil fuels.<sup>6</sup> Details about these recommendations may be found on our website at <http://www.gao.gov/products/GAO-12-590>.

**15. Both the OIG and GAO testimony reveals that EPA is slow to implement their recommendations. This is deeply concerning as both the OIG and GAO are in the midst of conducting massive reviews and investigations into the Animus River spill and the water crisis in Flint, Michigan, what were exposed last year. Given EPA's track record for slow implementation of your recommendations, what level of confidence can we have that EPA will take the necessary steps to fully and timely implement recommendations coming out of your review on Gold King Mine and Flint?**

**GAO Response:** We have ongoing work related to the Bureau of Reclamation's technical review of the Gold King Mine incident, as well as work related to the Lead and Copper rule issued under the Safe Drinking Water Act. However, we are not investigating the specific events that occurred in Flint, Michigan. EPA will have an opportunity to comment on recommendations, if any, stemming from ongoing work and note any of the agency's plans for recommendation implementation. EPA's comments on the recommendations will be published in our report. In addition, we will track the implementation of any recommendations made through our regular processes.

Based on our last assessment in May 2016, EPA's recommendation implementation rate for our recommendations made in fiscal year 2011 was 76 percent. In our 2015 Performance and Accountability Report, we reported that the governmentwide implementation rate of fiscal year 2011 recommendations was 79 percent. As reflected in the testimony statement, as of May 23, 2016, EPA had implemented 17 percent of our recommendations from fiscal years 2012 through 2015.

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<sup>5</sup>GAO-14-519.

<sup>6</sup>GAO, *Air Pollution: EPA Needs Better Information on New Source Review Permits*, GAO-12-590 (Washington, D.C.: June 22, 2012).

Senator ROUNDS. Thank you for your testimony, Mr. Gomez.

Senators will now have 5 minutes each for questions. I will begin.

Mr. Larsen, the OIG's most recent semiannual report to Congress cited 148 unimplemented EPA recommendations. Your testimony mentions annual followup audits, but how else does the OIG work with EPA to ensure these recommendations are thoroughly implemented in a timely manner?

Mr. LARSEN. The Agency has the official and ultimate responsibility to track and implement these recommendations, and they do that. We keep track, ourselves, of their progress, and at the end of each semiannual reporting period we compare with the Agency's tracking and we make sure that we agree on what are open recommendations and what are unimplemented recommendations. At that point we sometimes check back and say you promised progress as of a certain date and you haven't done it; why is that not happening. We also will do followup audits. In addition to tracking the existing recommendations, we may launch a new project to find out what is going on, why things aren't progressing.

Senator ROUNDS. Do you report your progress back to Congress as well, on the implementations and the followup? Is there a followup on a regulation-by-regulation basis that Congress receives as well?

Mr. LARSEN. The primary reporting back is in the semiannual report, and in that we have an appendix that report-by-report, recommendation-by-recommendation indicates the status of the unimplemented recommendations; how far behind they are and what the Agency's reason for not having made the progress is.

Senator ROUNDS. Thank you.

Mr. Gomez, the EPA has implemented 77 percent of recommendations that the GAO made from 2006 to 2011, as you indicated, and only 17 percent of the recommendations were made from 2012 to 2015. These figures also reveal that for older recommendations, from 2006 to 2011, nearly 30 percent remain unimplemented. What is the average amount of time the EPA takes to implement GAO's recommendations and why does it take years to implement your recommendations?

Mr. GOMEZ. So, in most cases, our experience has shown that it takes agencies, EPA among them, about 4 years to implement our recs. So we make a variety of recommendations. Some of them do require a little bit more time, for example, if the recommendation is where EPA has to work with stakeholders, whether they be other Federal agencies, State agencies, to put together different memorandums or strategies. In other cases, though, where we make a recommendation, for example, that EPA use existing web tools that it has to provide information to the public to clarify information, in those cases we think that the Agency could actually do those a lot faster than a couple of years.

As I mentioned in my statement, we also track them for 4 years very carefully. We have a website where you can see for each report the status of each recommendation, similar to what the IG does. So anyone can see what the status is. We do encourage the agency to implement the recommendations as quickly as possible.

Senator ROUNDS. Thank you, Mr. Gomez.

Mr. Larsen, you indicated there was a cost-savings for the amount of money that we spend in OIG activities versus the return. Can you elaborate on the amount of cost-savings your office finds at the EPA and how you find these cost-savings and how you make the recommendation?

Mr. LARSEN. Yes. What I can't do, and I am sorry to say I won't be able to do, is to take an individual recommendation and say that one will end up saving \$1 million. So we can't do that. There are any number of recommendations we make that we don't attempt to and are unable to assign a dollar figure to.

So those \$16 per dollar comes from the projects we do where there is an identifiable dollar savings; and, as I say, many of the other projects may have, I don't know, a more intangible benefit, whether it is health benefits or a process savings. So we don't try to establish a cost-savings where it would be a fanciful number.

Senator ROUNDS. I understand. Thank you. My time has expired. Senator Markey.

Senator MARKEY. Thank you very much, Mr. Chairman.

Director Gomez, for the EPA to properly evaluate and regulate toxic substances, it is essential that they have the most up-to-date chemical and toxicity data available. One key recommendation you have made is that EPA needs to improve its efforts to test and evaluate chemicals. To what extent will the recently passed TSCA reform legislation assist EPA in addressing GAO's open chemical safety recommendations?

Mr. GOMEZ. So we believe that some of the provisions in the new TSCA law would help EPA address some of the open recommendations that we have. For example, one of the recommendations we made was that EPA should take steps to obtain more chemical toxicity and exposure information; and the new TSCA legislation does enhance EPA's authority to obtain such information from chemical manufacturers and processors. So once EPA takes action on those measures, we will then reevaluate to see if we can close those recommendations.

Senator MARKEY. Thank you so much, because when we were working together on a bipartisan basis on that legislation, it was important, as we negotiated TSCA, that we remove the catch-22 that forced EPA to know a chemical was dangerous before it could require safety testing to be done on that chemical. And I am also that EPA's new authority will help with that as well.

Again, Director Gomez, in your testimony you stated that the EPA has implemented 174 out of 325 recommendations made in the last 10 years. However, GAO recognizes that recommendations cannot be implemented overnight and takes an average of 4 years to implement.

When you look at recommendations made four or more years ago, EPA has an implementation record that is just about equal to the 80 percent Government-wide average. Do you agree, Director Gomez, that EPA is putting a concerted effort toward implementing GAO recommendations in a manner that is similar to other Federal agencies?

Mr. GOMEZ. So, right, EPA's average is similar to the agency-wide average. What we have done with EPA most recently was we decided to do outreach and update twice a year because we wanted

to get more current information from EPA so that perhaps we could close more of the recommendations, or at least just work with them in terms of if there are some recommendations where they disagree with us, so we agree to disagree.

But the recommendations for us is a pretty high bar. I mean, it is a recommendation that is made based on having good understanding of what is happening on the ground, what the requirements are that the Agency is supposed to be doing, what the reasons are as to why they are not doing that or why there is a deficiency. So our recommendations are fairly well supported and articulated, so we want the Agency to implement our recommendations.

Senator MARKEY. Mr. Larsen, let me come over to you. In the last 7 years EPA has received over 1,700 recommendations from the inspector general. Since, in the last annual report, only 148 of those 1,700 remained unimplemented, would you agree, Mr. Larsen, that EPA generally does act on your recommendations in about 4 years, similar to EPA's record in implementing GAO recommendations?

Mr. LARSEN. Yes, Senator Markey. We don't track them exactly that way, but in preparation for this hearing I asked our staff to try to come up with that number and we came up with 3.7 years on average for implementing the recommendations by the Agency.

Senator MARKEY. So, in general, what you are saying is that GAO and the inspector general at the department at the EPA have a very similar view of the speed with which EPA does respond.

Mr. LARSEN. That is correct, Senator.

Senator MARKEY. And that it is in line with all other agencies in the Federal Government.

Mr. LARSEN. That one I can't answer. We don't know where the other agencies stand, but for us it appears we are in line with the GAO.

Senator MARKEY. I guess the fact that we were having a hearing, had you had to compile that information wouldn't give you enough time to then compare it to the rest of the whole Government.

But do you agree with that, Mr. Gomez, that in general it is in the ballpark?

Mr. GOMEZ. So that has been our experience, that Government-wide it generally takes agencies a little longer, and that is why we track it each year closely.

Senator MARKEY. OK, beautiful. Thank you.

Thank you, Mr. Chairman.

Senator ROUNDS. Thank you.

Chairman INHOFE.

Senator INHOFE. Mr. Gomez, in response to a request that I submitted, the GAO issued a legal opinion on December 14th of 2015 concerning the EPA's use of social media to promote its WOTUS rule. Because GAO found EPA had violated the Anti-Deficiency Act, the EPA was required to submit a report to the President and Congress and GAO. Now, the first thing I would ask is, what is the status of that request?

Mr. GOMEZ. So we have not received the Anti-Deficiency Act report from EPA.

Senator INHOFE. Are they making any statement that they deny that this was a violation of the Anti-Deficiency Act?

Mr. GOMEZ. Based on our finding, as you noted, the agencies are required to submit a report to Congress, to the President through OMB, and at the same time submit that report to the comptroller general, who is my boss.

Senator INHOFE. Now, do you have any idea of any kind of discussion or response to that particular one that has taken place since 2015?

Mr. GOMEZ. I do not, but what we can do is we can inquire with EPA through our general counsel's office and get back to you.

Senator INHOFE. OK, so it would be in line for me or any Member of Congress to request that you get a status report on that and anything that we want to release for public consumption would be acceptable?

Mr. GOMEZ. Yes, I can take that back.

Senator INHOFE. All right.

Mr. GOMEZ. Thank you.

Senator INHOFE. All right, I think we should do that, because in this case this is a statute that is on the books. It is one that we knew this was going on at the time. It is on an issue, the WOTUS issue is arguably the most significant issue of all the over-regulations that we have, at least in my State of Oklahoma, and I think it is really incumbent to do that.

Mr. Larsen, as you know, I have been a frequent requester of the IG investigations reviews. For instance, in response to a request I submitted in 2011, the IG made several recommendations for EPA to update its conflict of interest policies and peer review process in the 2013 report. This is something that Senator Boozman has called to our attention in these meetings; it is something that is significant.

Now, I understand the EPA has reported the recommendations are complete, but the OIG has not conducted any formal followup review to assess the adequacy of EPA actions. Does the IG plan to followup on EPA's actions per this report?

Mr. LARSEN. As I mentioned, we do followup reports. We are entering into, as we head into summer, the work plan planning process, and out of that comes our discretionary projects. I don't know if that is on tap for next year for followup. I will check with our entities that do those reports and get back to your staff.

Senator INHOFE. What concerns me is if it is a case of a corporation, corporations or an individual could own stock in a corporation, the corporation could own two or 300 or many, many more. So that could fall as a conflict of interest. When it is an environmentalist group of some kind, you don't have that, you don't have the reams and reams.

So I assume when you are looking at the reform of a conflict of interest, you are taking things like that into consideration, and they are looking at it now, is that correct?

Mr. LARSEN. What I don't know is if we have a new project planned in that area, and I will get back to you on whether we do.

Senator INHOFE. OK, I appreciate that.

Mr. Gomez, July 2014, the GAO report found, among other things, that the EPA does not properly consider the impact of its

regulations on employment. The GAO recommended EPA update its approach to estimating employment impacts, but the EPA has not done so. You have heard, if you watch what goes on in this Committee, on three different occasions we have quoted Administrator McCarthy when she said that there is no evidence that EPA regulations have a negative impact on jobs.

Senator Capito is sitting over here and her eyes started rolling around. There are some things that are so obvious it doesn't take that type of a report out there.

Now, how can McCarthy make such claims when EPA's process for evaluating employment impacts remains broken?

Mr. GOMEZ. So that was one of our recommendations in the report also, for EPA to look closely at the information they were using in calculating employment of facts, and to really find more current—

Senator INHOFE. Let me ask both of you a question. I know my time has expired, but it is significant to me.

I agree with Senator Markey when he said that both GAO and IG have to be independent. Now, GAO, in my eyes, is independent because there is not a relationship in that line. That isn't quite true with the IG because isn't the IG actually a part of EPA?

Mr. LARSEN. Senator, we are a part administratively, but the IG and the OIG do not take direction from the administrator; we report results to—

Senator INHOFE. So you think your level of independence is not impaired by that relationship?

Mr. LARSEN. That is correct.

Senator INHOFE. Thank you, Mr. Chairman.

Senator ROUNDS. Thank you.

Senator BOOZMAN.

Senator BOOZMAN. Thank you, Mr. Chairman, and thank you and Senator Markey for having this hearing today.

Mr. Gomez, last year you appeared before this Committee at a hearing examining S. 543, the Science Advisory Board Reform Act, which I introduced with Senator Manchin and Inhofe. At the time you testified that EPA's procedures for processing congressional requests to the Science Advisory Board did not comply with the law. GAO subsequently issued a report with four specific recommendations to ensure EPA compliance.

Your written testimony for today's hearing indicates that EPA has not implemented the recommendations. The question is how can EPA go a year without adopting these common sense recommendations to ensure compliance with the law?

Mr. GOMEZ. So, right, we made four recommendations in that report and the recommendations were focused on helping to improve the procedures that EPA has in place for processing congressional committee requests for scientific advice from the Science Advisory Board; and as we understand it, as of March of this year, EPA is developing a written process that would address our recommendations.

We are waiting for that process to be completed so that we can then assess it and look to see if it addresses the intent of our recommendations. And our recommendations were very specific about

the process that we believe EPA should have in place as it processes requests from Congress for scientific advice.

Senator BOOZMAN. So is this a budget issue, as to why they have not come forward?

Mr. GOMEZ. We have not been told that is a budget issue. Our recommendations were about improving the process that they have in place. In some cases it wasn't well documented, so we don't see that it is a resource issue and they haven't said it is a resource issue there.

Senator BOOZMAN. And I guess that is an irritant of mine. We hear a lot about budgets and budgets are tight, but some of these things just don't get done; and, again, a year is a long time.

On the topic of the EPA Science Advisory Board, I want to ask you about a requirement of the Fiscal Year 2016 omnibus that EPA develop a policy statement on Science Advisory Board membership that would incorporate the goals of increasing State and Tribal representation on the Science Advisory Board, as well as update its conflict of interest policy similar to what Senator Inhofe was asking Mr. Larsen.

Per the omnibus, EPA was to develop the policy and submit to the GAO again for review in March. Has EPA submitted the statement to GAO?

Mr. GOMEZ. EPA has not submitted that conflict of interest statement to us yet. The last we had heard was that they were reviewing it internally and it was due to us the end of April, but we have not received it yet.

Senator BOOZMAN. OK. So do they say the reason for the delay, then?

Mr. GOMEZ. Only that it is currently being reviewed by the EPA Office of congressional and Intergovernmental Relations.

Senator BOOZMAN. And, again, this is another thing that doesn't seem to be driven by budget, but just simply not getting things done.

Mr. GOMEZ. Yes, it is not a budget issue, as we understand it; it is going through their process. And I know that you had a timeframe for when it was due to GAO, and it is over that timeframe.

Senator BOOZMAN. Thank you.

Mr. Larsen, IG plays an important oversight role in helping Congress improve programs by leading efforts to cut waste, fraud, and abuse across Washington. In the EPA OIG semiannual report to Congress, more than \$6 billion was accounted for as insufficient or not documented as being provided to the EPA because EPA failed to have complete and accurate data. The report goes on to further describe the negative impact this has had on taxpayers, public health, and natural resources.

Can you address the findings and explain to us how the EPA could mismanage \$6 billion? Again, with us talking about the problem of not having the resources that some of these basic functions need to get done.

Mr. LARSEN. I understand the question and I am not going to pretend that I have the answer to each and every of the reports we have. I do have in the room our assistant inspector general for audit, or I can get back to you with a specific answer to that, but I don't have those facts at my fingertips.

Senator BOOZMAN. My time is up.

Thank you, Mr. Chairman.

Senator ROUNDS. Thank you.

Senator BOOZMAN. But I would appreciate it if you would get back to us.

Mr. LARSEN. Yes, sir.

Senator BOOZMAN. Thank you.

Senator ROUNDS. Just thinking and listening to the testimony here and your responses to the questions, first of all, I appreciate the candid way in which you have responded. Second of all, I sense the frustration that members of this Committee have offered, both Senator Markey and also Chairman Inhofe and Senator Boozman. In each case there has been a frustration suggested, and I am just going to try to paraphrase this and see if there isn't something that we need to do about it.

Three and a half to 4 years seems like an awfully long time in which to expect to have these things implemented as an average, regardless of whether it is with the EPA or with any other Federal agency. And at the same time, as Senator Inhofe had suggested, there was clearly a wrongdoing, one that you have pointed out and that you have asked for a response on, none of which has been forthcoming at this time.

If there was one thing that would frustrate anybody who is concerned with appropriate application of law, protections, as Senator Markey has shared or as Senator Inhofe has indicated, a violation of a law in terms of how the money was spent, justice that takes that long to come through seems to me to be, as they would suggest, justice denied.

I am just going to ask this, and, Senator Markey, I understand that you have another meeting that you have to be at, but I would give you, as Ranking Member, the opportunity to respond as well.

Gentlemen, is there something that we should be doing here in order to expedite responses? Is there something we can do to actually get a more expedited response from not just EPA, but from other agencies as well, when those recommendations are there and clearly there is a time delay?

Mr. LARSEN. Senator, this is going to sound more bureaucratic than I intend it to be, but the structure that was created for the IGs allows us to make recommendations. We cannot order an agency to do anything. And it is left to them to decide what to do. Part of the independence that I was discussing with Senator Inhofe is that we report to the agency. We also report to the Congress. If the agency chooses not to, or is unable to, act, Congress is also aware of the recommendations we have made; and the way the process works, then, if Congress has the ability, if it chooses, to waggle its finger or take more strong action.

Senator ROUNDS. Thank you.

Mr. Gomez.

Mr. GOMEZ. So our recommendations are exactly that, recommendations; they are not binding. I think what you are doing now is exactly what we would like, is to bring more attention to the recommendations. As I noted also, our reports are public. Anyone can go and look at the recommendations and look at the status.



And I have to tell you that we get a lot of inquiries from lots of people asking what is the status of recommendations, so EPA is well aware of that; and that is one of the reasons why we have agreed to update the recommendations twice a year, so that we can try and bring closure to them or at least articulate why there is disagreement in some cases.

Senator ROUNDS. Thank you.

Gentlemen, once again I want to thank you for your testimony and just for taking the time today to be with us and participate in this hearing.

I would also like to thank Senator Markey, my colleague, Senator Boozman, Senator Inhofe for being here.

The record will be open for 2 weeks, which brings us to Tuesday, June 28th, and, with that, this hearing is adjourned. Thank you.

[Whereupon, at 3:50 p.m. the subcommittee was adjourned.]

[Additional material submitted for the record follows.]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR  
FROM THE STATE OF OKLAHOMA

Thank you Subcommittee Chairman Rounds for convening today's oversight hearing, and thank you to our witnesses from the Government Accountability Office (GAO) and the Environmental Protection Agency's (EPA) Office of Inspector General (OIG) for being here to testify.

Today's hearing is important because Members of Congress are charged with conducting oversight over executive agencies, such as the EPA, to ensure compliance with their statutory authority and mission in a manner free of waste, fraud, and abuse. EPA watchdogs such as the GAO and the OIG play a critical role in partnership with Congress to fulfill this oversight function.

I have long valued this partnership as a frequent requester of both GAO and EPA OIG reviews and investigations, which in many cases result in recommendations for the Agency to enhance performance, create efficiencies, and safeguard taxpayer dollars. However, as testimony today reveals, EPA has been slow to implement OIG and GAO recommendations. For instance, GAO will testify that nearly thirty percent of EPA recommendations made between 2006 and 2011 remain unimplemented, and only 17 percent of GAO's recommendations from 2012 to 2015 have been implemented. The EPA OIG's testimony similarly highlights a significant number of open recommendations; most recently reporting 148 unimplemented EPA recommendations, 89 of which are more than a year old.

Among those unimplemented OIG and GAO recommendations, several are of great interest to the Committee's oversight efforts. For example, EPA has yet to implement various GAO recommendations regarding the Agency's procedures for processing congressional requests for scientific advice by the Agency's Science Advisory Board. Further, EPA has yet to implement nearly 2-year-old recommendations from GAO to improve its regulatory impact analyses, including updates to the way EPA estimates the impact its regulations have on employment. Finally, EPA still needs to implement various recommendations from the OIG to ensure its hiring process is sound in light of the John Beale scandal and the Agency's recent mass hiring.

These outstanding recommendations are concerning as both the EPA OIG and GAO are in the midst of substantial reviews and investigations into the Animas River spill at Gold King Mine and the drinking water crisis in Flint, Michigan. Subsequent GAO and OIG reports will undoubtedly include numerous recommendations for EPA, yet based on testimony today I have little confidence EPA will fully and swiftly implement these recommendations.

Indeed, today's hearing raises questions about why EPA has been late to implementing many common-sense recommendations. I have been concerned the EPA has been deviating from its core mission and focusing on pushing new regulatory actions that are political priorities of President Obama without new authority from Congress, as is the case with the Clean Power Plan and Waters of the U.S. rule, which have both been halted by the Courts pending judicial review.

For these reasons, we need to engage with EPA watchdogs like GAO and the OIG to ensure they are effective and hold EPA accountable. Today is another step toward continuing that relationship.

I look forward to hearing from our witnesses today who will share perspective on EPA's major challenges and how the Agency is implementing GAO and OIG recommendations.

I ask that my full statement be entered into the record. Thank you.

